

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

\* \* \*

THEODORE LUCIO, et al.,

Plaintiffs,

vs.

CASE NO. 3:15-cv-0613-JJH

EDW. C. LEVY CO., et al.,

Defendants.

\* \* \*

Deposition of MICHAEL C. WRIGHT, Witness  
herein, called by the Defendant Edw. C. Levy  
Company for cross-examination pursuant to the  
Rules of Civil Procedure, taken before me, Kathy  
S. Wysong, a Notary Public in and for the State of  
Ohio, at the offices of Dungan & LeFevre, 210 West  
Main Street, Troy, Ohio, on Thursday, April 7,  
2016, at 9:33 a.m.

\* \* \*

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1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Gallon, Takacs, Boissoneault &  
4 Schaffer Co., L.P.A.

5 By: Kevin J. Boissoneault  
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10 On behalf of the Defendant Edw. C. Levy  
11 Company:

12 Eastman & Smith Ltd.

13 By: Stuart J. Goldberg  
14 Attorney at Law  
15 One SeaGate, 24th Floor  
16 Toledo, Ohio 43699-0032

17 On behalf of the Defendant North Star BlueScope  
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20 By: Charles E. Ticknor, III  
21 Attorney at Law  
22 191 West Nationwide Boulevard  
23 Suite 300  
24 Columbus, Ohio 43215

25 \* \* \*

1 MICHAEL C. WRIGHT

2 of lawful age, Witness herein, having been first  
3 duly cautioned and sworn, as hereinafter  
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

6 BY MR. GOLDBERG:

7 Q. Good morning. For the record, my  
8 name is Stu Goldberg and I represent Edw. C. Levy  
9 Company. I know that you are Michael Wright.  
10 Please introduce yourself.

11 A. Michael C. Wright.

12 Q. Okay. And you're an engineer?

13 A. Yes. I'm a --

14 Q. Your hourly rate is?

15 A. Four hundred dollars -- four fifty an  
16 hour.

17 Q. Four hundred, four fifty, which?

18 A. I'm sorry. Four fifty.

19 Q. Okay. And do you have more than one  
20 hourly rate?

21 A. It's three fifty for field  
22 inspections, report, review of documents; and then  
23 depositions and trial is four fifty.

24 Q. Okay. And the time you've worked on  
25 the file for plaintiff, Mr. Lucio, in this case so

1     **far?**

2                   A.     How many hours or the course or  
3     either?

4                   Q.     Well, you can start with the time.  
5     Approximately. You have your invoices there?  
6     What are you looking for?

7                   A.     Invoices I thought was here. Oh,  
8     here they are. So the approximate cost is  
9     twenty-eight thousand five hundred.

10                  Q.     Have you billed for that already?

11                  A.     Yes.

12                  Q.     And have you been paid for that  
13     already?

14                  A.     Yes.

15                  Q.     Okay. This shows you had a retainer  
16     of four thousand dollars and then you billed an  
17     additional twenty-four thousand five hundred  
18     fifteen?

19                  A.     Yes.

20                  Q.     And you're telling me that you were  
21     paid for that?

22                  A.     To my knowledge, yes.

23                  Q.     And how many hours does that show,  
24     without me having to thumb through the whole  
25     thing? Just the total number of hours you've

1     **spent, is there a total at the end, sir?**

2             A.     Well, there is minus --

3             **Q.     How about the total at the end, how**  
4     **about that?**

5             A.     That includes my administrative  
6     assistant's total. It is approximately  
7     thirty-eight hours.

8             **Q.     And that was billed at three hundred**  
9     **and fifty dollars an hour?**

10            A.     Yes.

11            **Q.     Okay. Thank you.**

12            A.     You're welcome.

13            **Q.     Is there any work you're still doing**  
14     **for plaintiff in this case other than today's**  
15     **deposition?**

16            A.     That's all I know of as I sit here  
17     today.

18            **Q.     Okay. You've not been asked to do**  
19     **anything that you haven't done already?**

20            A.     Correct.

21            **Q.     Okay. Is there anything that you've**  
22     **done since writing your report of whatever it was**  
23     **dated, the one that you submitted in this case --**

24            A.     I've received the deposition --

25            **Q.     -- February 19, 2016? Is there**

1     **anything you've done since then?**

2             A.     I've received the deposition, volume  
3     two, of the plaintiff and some summary judgment  
4     motions yesterday.

5             Q.     Okay. Has any -- have you read those  
6     documents already?

7             A.     Yes.

8             Q.     And did you change any opinions as a  
9     result of reading that second deposition or  
10    reading those motions?

11            A.     No.

12            Q.     Okay. Did you see one motion or two?

13            A.     Two.

14            Q.     Okay. Is there anything that you've  
15    asked to do that counsel has told you not to do?

16            A.     No.

17            Q.     Is there anything that you wanted to  
18    see that you haven't seen yet?

19            A.     No.

20            Q.     Okay. Would you agree with the  
21    statement that OSHA compliance is the  
22    responsibility of employers to employees?

23            A.     In general terms, OSHA Act applies to  
24    employers and employees.

25            Q.     Okay. And for ease of reference, and

1     you probably saw it in the motion, Levy  
2     Environmental was referred to Fulton Mill  
3     Services --

4             A.     Correct.

5             Q.     -- which is its local company there  
6     where -- out of the North Star facility, right?

7             A.     Correct.

8             Q.     So I might refer to that as FMS.

9             A.     Or Fulton's.

10            Q.     Fulton Mill?

11            A.     Is that okay?

12            Q.     Yeah, that's fine. As opposed to  
13     Levy because I know you in your report referred to  
14     Levy Company --

15            A.     Levy Environment.

16            Q.     -- and Levy Environment. So we can  
17     say Edw. C. Levy and we can say Fulton Mill?

18            A.     Yeah.

19            Q.     Now, you read the OSHA investigation  
20     in this case?

21            A.     Yes.

22            Q.     And was there a citation issued, to  
23     your understanding?

24            A.     Yes.

25            Q.     And that was issued to Fulton Mill?

1           A.     Yes.

2           Q.     And was there any citation issued to  
3 anybody else?

4           A.     No.

5           Q.     You understand that Edw. C. Levy  
6 Company through its divisions designed and  
7 constructed the slag plant?

8           A.     Yes. At Fulton Mill. Yes.

9           Q.     At Fulton Mill. Thank you. And you  
10 understand that prior to Mr. Lucio's accident  
11 there was no history of falls or complaints or  
12 near misses at that facility?

13          A.     On the subject tower number two,  
14 correct.

15          Q.     On any of the towers at the slag  
16 plant were you aware of any history of falls,  
17 complaints, or near misses?

18          A.     My record is silent on that.

19          Q.     Okay. Thank you. Are you aware of  
20 any contracts that were entered into between  
21 Fulton Mill and Edw. C. Levy Company relating to  
22 safety?

23          A.     There's a design-build contract  
24 of '96 to North Star -- between North Star and  
25 Levy, and then there's also a service agreement

1     between North Star and Fulton.

2                 **Q.     Why don't you pull out those**  
3     **documents that you're referring to. I know you're**  
4     **very well organized there in your files.**

5                 **All right. You referred to a**  
6     **design-build contract. Is there a design-build**  
7     **contract that you've put out here?**

8                 A.     Well, it's to design and to provide  
9     the Tower 2. That would be the original  
10    agreement, 1996, to --

11                **Q.     Okay. That's called a -- what you've**  
12    **brought out here that you've said would be to**  
13    **design and build --**

14                A.     And to install or construct.

15                **Q.     -- you said that was between --**

16                A.     Well, it's Levy and --

17                **Q.     Edw. C. Levy?**

18                A.     Yes. And North Star.

19                **Q.     Okay.**

20                A.     It was between Fulton and North Star  
21    and Levy backed it up.

22                **Q.     All right. The document that you've**  
23    **brought out is actually a slag handling and mill**  
24    **services agreement, correct?**

25                A.     Yes.

1           Q.    Okay.  It's not a design to build  
2   contract of any kind, is it?

3           A.    From an engineering point of view, it  
4   is.

5           Q.    Well, it's not labeled as that?

6           A.    It's not labeled as that.  The  
7   performance was that.

8           Q.    But this was between Fulton Mill  
9   Service and North Star, right?

10          A.    Yes.

11          Q.    Okay.  And what was the other  
12   contract that you said there was?

13          A.    These two.

14          Q.    But you referred to it as something.  
15   I don't remember what you called it.

16          A.    Service agreement maybe.

17          Q.    Okay.

18          A.    I don't remember.

19          Q.    And the -- this is just a second  
20   amended and restated slag handling and mill  
21   service agreement and a first amended and restated  
22   slag handling and mill service agreement, right?

23          A.    Correct.

24          Q.    So those are just reiterations of the  
25   first document, the first contract between Fulton

1     **Mill and North Star, correct?**

2             A.     You can look at it that way.

3             Q.     Well, is that what they are -- that's  
4     what they're -- those are the parties that they're  
5     between, right?

6             A.     They are the parties between.

7             Q.     And it's --

8             A.     The first one was under construction  
9     and then the other two is ongoing.

10            Q.     Okay. It was under -- the slag plant  
11     was under construction?

12            A.     Correct, design build.

13            Q.     And Fulton Mill Service agreed with  
14     North Star to provide slag handling and mill  
15     services and they indicated that it was their job  
16     that they were going to put up the slag plant,  
17     right?

18            A.     Right.

19            Q.     Okay.

20            A.     You want me to put them back?

21            Q.     Yes. My question to you, Mr. Wright,  
22     was whether there were any contracts between  
23     Fulton Mill and Edw. C. Levy Company. There were  
24     no contracts between Fulton Mill and Edw. C. Levy  
25     Company, correct?

1 A. Levit company had --

2 Q. Levy?

3 A. Levy, sorry. Levy Company had an  
4 agreement -- performance agreement, performance  
5 warrant, whatever, to back up Fulton Mill in the  
6 performance to North Star, assurance agreement or  
7 financial agreement, whatever you call it.

8 Q. I understand you're not a lawyer but  
9 I'm just asking, there was no contract signed  
10 by -- as between Fulton Mill and Edw. C. Levy --

11 A. No.

12 Q. -- correct?

13 A. Correct.

14 Q. Okay.

15 A. If you don't call that a performance  
16 guarantee of their providing the services.

17 Q. Mr. Wright, you're aware that  
18 Mr. Lucio was provided fall protection safety  
19 training by Fulton Mill about two months before  
20 his fall?

21 A. He went through a safety training  
22 meeting, yes.

23 (Thereupon, Defendant's Exhibit A,  
24 fall protection outline, was marked for purposes  
25 of identification.)

1 BY MR. GOLDBERG:

2 Q. Just take a look at Defendant's  
3 Exhibit A, which is, you'll agree with me, Levy  
4 Bates stamp documents 35 through 40, and have you  
5 seen those pages before?

6 A. Yes.

7 Q. Okay. And when you agreed with me  
8 that Mr. Lucio was provided fall protection  
9 training by Fulton Mill about two months before,  
10 that reflects that, in fact, he was?

11 MR. BOISSONEAULT: Objection. That's  
12 not what his testimony was.

13 MR. GOLDBERG: Okay.

14 BY MR. GOLDBERG:

15 Q. Will you agree with me that he was,  
16 in fact, given fall protection training about two  
17 months before the incident?

18 A. There was a fall protection meeting  
19 and PowerPoint that was done by the plant.

20 Q. According to Mr. Lucio's testimony,  
21 right?

22 A. Right.

23 Q. Okay. And Exhibit A shows that there  
24 was fall protection training given to him about  
25 two months before? And I'll just refer you to one

1 of the latter pages which has signatures dated  
2 December 18, 2012. That would be about a couple  
3 months before the February incident?

4 A. Yes.

5 Q. And that includes Ted Lucio's  
6 signature, right?

7 A. Yeah. That's a safety meeting, yeah.  
8 It's some -- it's some form -- usually safety  
9 meetings are not in-depth safety training.

10 Q. Okay. Well, whether they usually are  
11 or whether they usually aren't, if the material  
12 that is included in Levy 35 through 40 was  
13 presented on or about December 18, 2012, you would  
14 agree with me that there was some level of fall  
15 protection training that day that Mr. Lucio  
16 participated in?

17 A. I would agree that --

18 Q. Okay.

19 A. -- there was some level of training  
20 that was spoken. I can't get into Mr. Lucio's  
21 mind, if he understood it. A lot of people have  
22 to actually put it on and do it before they  
23 understand.

24 Q. I don't know whether they do or they  
25 don't --

1           A.     Right.

2           Q.     -- and are you a psychologist?

3           A.     No, I'm just --

4           Q.     And you don't get into people's  
5 minds, do you?

6                     MR. BOISSONEAULT:   Stu, you've got to  
7 let him finish.  You keep cutting him off  
8 repeatedly, and we're just getting started.  
9 Please let him finish.

10                    THE WITNESS:  I do a lot of fall  
11 protection training, and at that level -- at-risk  
12 worker level you have to actually teach it  
13 verbally and then actually do it and show how it's  
14 being used because most of the guys don't  
15 comprehend how it all fits together.

16           BY MR. GOLDBERG:

17           Q.     I understand.  And I understand that  
18 you do and have done a lot of fall protection  
19 training, and I do want to get into that with you  
20 in a little bit.  For our purposes today, I would  
21 ask if you agree with the proposition that if  
22 Mr. Lucio followed the fall protection training  
23 that's reflected on Exhibit A, would you agree  
24 that he would not have fallen that day?

25                     MR. BOISSONEAULT:  Objection.

1 THE WITNESS: Well, there's two  
2 things, if it's given and if it's understood.

3 BY MR. GOLDBERG:

4 Q. Understood. If he understood it --

5 MR. BOISSONEAULT: Wait. Were you  
6 finished?

7 THE WITNESS: No.

8 BY MR. GOLDBERG:

9 Q. My question assumes that he's going  
10 to have understood it; but if the information  
11 conveyed on Exhibit A was passed on to him and he  
12 understood it, would you agree with me that this  
13 accident would not have happened?

14 MR. BOISSONEAULT: Objection.

15 THE WITNESS: The accident would have  
16 happened. There's no safety means and methods for  
17 him to properly use the fall protection  
18 equipment --

19 BY MR. GOLDBERG:

20 Q. Okay.

21 A. -- at the subject time of the  
22 accident.

23 Q. Okay. You're aware that there was a  
24 hole drilled in a beam above the screen deck?

25 A. Yes.

1           **Q.    And you're aware that that had been**  
2   **used as a tie-off point for lanyards and harnesses**  
3   **in the past?**

4           MR. BOISSONEAULT:  Objection.

5           THE WITNESS:  It's mostly been used  
6   as a connection of a come-along, and there was  
7   some testimony that in the early 1997 to around  
8   2005 that they would sometimes use fall  
9   protection.  The record was unclear what they  
10  connected to.

11  BY MR. GOLDBERG:

12           **Q.    Okay.  Did you go out to the site?**

13           A.    Did not.

14           **Q.    Okay.  Do you know whether a lanyard**  
15   **could have been attached to the hole in the beam?**

16           A.    A lanyard could not have been  
17   attached to a hole in the beam --

18           **Q.    Okay.**

19           A.    -- as a direct connection, no.

20           **Q.    Physically it couldn't have fit, is**  
21   **that what you're saying?**

22           A.    Physically it could not fit.  It  
23   would be out of ANSI standard compliance, it would  
24   be out of OSHA compliance.

25           **Q.    Are you aware of clips that can be**

1     **used to attach lanyards to harnesses as well?**

2             A.     That job -- I'm aware.

3             **Q.     Pardon me?**

4             A.     I'm aware.

5             **Q.     Okay. And looking at the structure**  
6     **that was there from the photographs you've seen**  
7     **anyway, are you aware whether or not lanyards**  
8     **could have been clipped onto the structure?**

9             A.     Lanyards could have not been clipped  
10    onto the structure and the single anchor -- single  
11    hole would have to be certified as an anchor point  
12    and one anchor point would not have sufficed for  
13    the location he fell.

14            **Q.     For the location what?**

15            A.     He fell.

16            **Q.     Because?**

17            A.     The angle between the -- if it was  
18    hypothetically certified and if it was  
19    hypothetically connected properly, the angle would  
20    have been too large and going across a sharp edge  
21    would have severed his lanyard. So all that would  
22    have been out of compliance with OSHA and ANSI.

23            **Q.     Sharp edge would have -- of what**  
24    **would have severed his lanyard?**

25            A.     Sharp edge of the objects. It's

1     called leading edge. Sharp edge -- steel sharp  
2     edge would have cut a nylon or a polyester  
3     lanyard.

4             **Q. Have you tested that?**

5             A. It's nationally known through ANSI  
6     and OSHA.

7             **Q. So you have not tested that?**

8             A. Not me physically. I'm on the ANSI  
9     committee and there's been a lot of talk about  
10    that.

11            **Q. Okay. But you've not done any**  
12 **testing?**

13            A. I've reviewed other people's testing  
14    but I've not done any.

15            **Q. And do you know the method of testing**  
16 **lanyards to see if they can sever on a sharp edge,**  
17 **on a leading edge?**

18            A. What's your question?

19            **Q. Are you aware of the method of**  
20 **testing a lanyard to see if it will sever on a**  
21 **leading edge, as you described?**

22            A. There's protocols in ANSI Z359  
23    standards that would show you the protocols of the  
24    sharp edge. The sharp edge doesn't have to be  
25    what you think is a sharp edge typically. It's

1     like three-eighths of an inch in radius going  
2     across a three inch radius would sever the  
3     lanyard.

4             **Q.     So what's the sharp edge you're**  
5     **talking about here?**

6             A.     The steel edge of the framing of the  
7     screen, and it's too far away from the proposed  
8     anchor point.  It's more than six feet away.

9             **Q.     You didn't measure it?**

10            A.     I could tell by the drawings.  I  
11     could tell by the photographs.

12            **Q.     You didn't measure it?**

13            A.     I did not physically measure it.

14            **Q.     Okay.**

15            A.     I'm a structural engineer.  I can  
16     tell by --

17            **Q.     Okay.  So how far is it from the**  
18     **anchor point that was drilled into the beam to the**  
19     **place where Mr. Lucio was standing at the time he**  
20     **lost his balance?**

21            MR. BOISSONEAULT:  Objection to the  
22     form of the question and foundation.

23            THE WITNESS:  From the photographs, I  
24     would estimate it was between ten and twelve feet.

25     BY MR. GOLDBERG:

1           Q.    Okay.  Now, Mr. Lucio didn't know  
2   where he was standing at the time he lost his  
3   balance?

4           A.    That's correct.

5           Q.    So how would it be possible to know  
6   how far he was standing from that hole at the time  
7   he lost his balance?

8           A.    There's a photograph with an X  
9   showing where he was approximately located at the  
10   time of the accident, a red X.

11          Q.    Do you remember his testimony that he  
12   didn't know where he was standing?

13          A.    I do.

14          Q.    Okay.  So the X shows someplace  
15   within the screen deck?

16          A.    It was from the OSHA reviews and  
17   interviews with the people that were there at the  
18   time.

19          Q.    Right.  You heard testimony from  
20   Mr. Deeds -- or you read testimony from Mr. Deeds?

21          A.    And Griffith, yes.

22          Q.    And Griffith -- Griffin or Griffith?

23          A.    Griffin.

24          Q.    Yeah -- saw him after he was flying  
25   out of the screen deck, right?

1           A.    I believe he saw him on a forty-five  
2   degree similar -- in approach to the fall, in the  
3   act of falling at the time.

4           Q.    He didn't claim -- from your reading,  
5   he didn't claim to see his feet on the screen deck  
6   floor, right?

7           A.    No.

8           Q.    Okay.  And Mr. Deeds had his back to  
9   him, correct?

10          A.    Correct.

11          Q.    You got that?  So he didn't see  
12   him --

13          A.    Correct.

14          Q.    -- fall?  And Mr. Lucio is unaware of  
15   where he was when he lost his balance?

16          A.    Correct.

17          Q.    Okay.

18          A.    And it --

19          Q.    And in fairness, we don't really know  
20   where he was at the time he lost his balance?

21               MR. BOISSONEAULT:  Objection.

22               THE WITNESS:  In fairness to OSHA  
23   compliance officers, they would see the impact  
24   locations of those impacts where they also marked  
25   on the drawing and they can take from the

1 interviews and get an approximate location, and  
2 that's what I'm using the range from ten to  
3 twelve, that's the approximate location.

4 BY MR. GOLDBERG:

5 Q. Okay. Do you know the dimensions of  
6 the screen deck?

7 A. It was estimated four to six feet.

8 Q. Okay.

9 A. And there's a --

10 Q. How could the distance from the beam  
11 be ten to twelve feet if the dimensions are only  
12 four to six feet?

13 A. The location of the torch-cut hole in  
14 the beam is up underneath the roof, and the  
15 location of the fall was out beyond the roof and  
16 the projected -- and the OSHA has the yellow area  
17 of where that working surface is at. So you have  
18 a roof and then out beyond a roof you have an  
19 overhang, and he was way beyond the -- he was out  
20 in the overhang area and that distance is greater  
21 than forty-five degrees off the vertical and it's  
22 also greater than six feet so it would be outside  
23 of OSHA and ANSI compliance to use a lanyard on an  
24 angle that severe because you'd have swing fall  
25 issues and also, you physically couldn't do it

1     because it would not give you enough length to do  
2     it -- do your work activity.

3             **Q.     All right. Now, the work activity**  
4     **was being done by Mr. Deeds and he was observing,**  
5     **according to the testimony?**

6             A.     Right.

7             **Q.     Okay. By the way, you did make some**  
8     **comments about a ladder. The ladder didn't have**  
9     **anything to do with Mr. Lucio's fall on this**  
10    **occasion, correct?**

11            A.     Correct.

12            **Q.     Okay.**

13            A.     The ladder shows that there was --

14            **Q.     I understand.**

15            A.     -- proper means and methods to get up  
16    on the -- on the --

17            **Q.     Screen?**

18            A.     -- screen guard, and then it also was  
19    designed for -- to remove the screen guard. It  
20    just shows lack of structural detail.

21            **Q.     Okay. You're aware that Mr. Lucio**  
22    **was provided with cardinal rules by Fulton Mill?**

23            A.     Yes.

24            MR. BOISSONEAULT: I'll just note an  
25    objection to the foundation to your last question.

1 MR. GOLDBERG: Okay.

2 (Thereupon, Defendant's Exhibit B,  
3 Edw. C. Levy Company, mini mill division, uniform  
4 rules and regulations, was marked for purposes of  
5 identification.)

6 BY MR. GOLDBERG:

7 Q. I'm showing you what's been marked as  
8 Defendant's Exhibit B, and it's actually headed  
9 Edw. C. Levy Co., mini mill division, uniform  
10 rules and regulations dated January '08, correct?

11 A. Yes.

12 Q. And then it has a number of pages  
13 that are Levy 418 through Levy 421, correct?

14 A. Yes.

15 Q. And on page 421 of this exhibit it  
16 shows a signature line by Mr. Lucio on November  
17 30, 2009?

18 A. Yes.

19 Q. And those rules include one that I  
20 highlighted here, that's my highlighting on item  
21 four that just says what? Can you read that?

22 A. Fall protection must be utilized  
23 where required.

24 Q. Okay. Would fall protection have  
25 been required in this instance, Mr. Wright?

1           A.     Fall protection would have been  
2     required. Fall protection wasn't provided.

3           Q.     Okay. If it was provided, which we  
4     have an issue with with you, then it would have  
5     been required in this instance?

6           A.     Fall protection was required to  
7     protect our employees when you're working four  
8     feet or higher.

9           Q.     Yeah.

10          A.     It wasn't.

11          Q.     And employees have responsibility,  
12     too?

13          A.     If it was provided, they do have a  
14     responsibility.

15          Q.     Okay. And the responsibility is to  
16     use it?

17          A.     If it's -- if you physically can.

18          Q.     Right.

19          A.     You have to have an anchor point.

20          Q.     Right.

21          A.     Just to wear a harness and a lanyard  
22     is not in compliance with OSHA. You have to  
23     physically be connected to a certified anchor, not  
24     just a hole in the beam.

25          Q.     Is there ever a situation where an

1     **employee should hook on to something that is not a**  
2     **certified anchor point?**

3             A.     From OSHA and ANSI's point of view,  
4     no. A competent person -- the supervisor should  
5     distinguish all the anchor points. So a worker,  
6     which is called an authorized worker or worker at  
7     heights -- an authorized worker has to be  
8     supervised by a competent person that can  
9     recognize existing and foreseeable fall protection  
10    hazards and control them -- stop work and control  
11    them and then tell the authorized worker how to  
12    connect or how to wear or don't do it that way,  
13    here's a better way to do it.

14            Q.     **Is there ever a situation where a**  
15    **worker would be expected to hook a lanyard to**  
16    **something that is not a certified anchor point?**

17                   MR. BOISSONEAULT: Objection. Asked  
18    and answered.

19                   THE WITNESS: It would be the same  
20    answer. There's no -- there's no circumstance  
21    that OSHA and ANSI gives you permission to anchor  
22    to anything. It's up to the competent person, the  
23    supervisor, to distinguish where that's at and  
24    identify that this is a certified anchor point,  
25    this is a guardrail, here's how you wear your

1 equipment, here's how you don't wear your  
2 equipment, here's how you attach, here's how you  
3 don't attach. The competent person is with his  
4 crew and making sure his crew is doing it  
5 properly.

6 BY MR. GOLDBERG:

7 Q. Okay. Now, have you ever been the  
8 competent person on site at a work site?

9 A. I've been the qualified person quite  
10 often on the work site.

11 Q. What does that mean, the qualified --  
12 a moment ago you used the term competent person.  
13 So what's the qualified person in the scheme of  
14 things?

15 A. The scheme of things is -- a  
16 qualified person is an engineer or has engineering  
17 experience and training that can distinguish fall  
18 protection hazards and the proper means -- safety  
19 means and methods to provide an abatement or  
20 control of that hazard or eliminate that hazard is  
21 what we try to do.

22 Q. Is that after an incident or --

23 A. No.

24 Q. -- after a citation or what?

25 A. That's before they even go up in

1 heights.

2 Q. Oh, okay. So what's the difference  
3 between -- what's the difference between a  
4 competent person and a qualified person I guess is  
5 what I'm trying to understand?

6 A. A competent person typically has at  
7 least forty hours of training and experience in  
8 that one subject matter, which is fall protection  
9 in this case. There's competent persons in  
10 excavating, competent persons in scaffolding, and  
11 competent persons in confined space. So a  
12 competent person in fall protection has to at  
13 least know the limits of the equipment they're  
14 using. If it's DBI, Miller Rose, whatever fall  
15 protection manufacturer they're using, there's  
16 about fifty-four different types of manufacturers  
17 out there now, and has to have an understanding of  
18 the limitations, how to inspect the equipment, how  
19 to instruct the people how to use the equipment  
20 and has the authority to stop work. A qualified  
21 person doesn't have the authority to stop work for  
22 their employees that they're watching. So a  
23 qualified person would work with a competent  
24 person.

25 Q. Is the qualified person the competent

1     **person's boss?**

2             A.     Not necessarily. A qualified person  
3     typically is the competent person's consultant. A  
4     qualified person sets up the program. A qualified  
5     person sets up the training, and then the  
6     competent person is like the sergeant that  
7     implements the training, implements the program,  
8     and then the qualified person would review and  
9     make sure it's on track.

10            **Q.     So you've done that as a consultant,**  
11 **I take it?**

12            A.     Yes.

13            **Q.     Okay. You've never worked for,**  
14 **say -- been an employee of a slag plant?**

15            A.     Never an employee of anybody.

16            **Q.     Never an employee of a steel mill?**

17            A.     No.

18            **Q.     Never an employee of --**

19            A.     A paper mill.

20            **Q.     -- a paper mill or a car manufacturer**  
21 **or anybody else?**

22            A.     Or military or anything.

23            **Q.     All right. All you've done in this**  
24 **area is consult with companies like that?**

25            A.     Set up programs like that.

1           Q.    Okay.  And so how long are you --  
2   when you're the qualified person, how long are you  
3   involved, usually, in setting up a program like a  
4   fall protection program and setting up the  
5   training when all you're doing is being the  
6   qualified person?

7           A.    Usually I try to phase myself out  
8   within eighteen months.

9           Q.    Okay.

10          A.    Then they'll call me in if there's  
11   some special thing that was created after the  
12   program got started that they didn't know how to  
13   handle.

14          Q.    Is it fair to say that during that  
15   eighteen months you're not on the site every day  
16   eight hours a day but you're spending some time on  
17   the phone with them and you're spending some time  
18   in person with them in a meeting room?

19          A.    What I typically did is we would  
20   interview the management, we would train the  
21   management, and the management understands the  
22   program with the OSHA requirements or the ANSI  
23   requirements.

24                Then we go out and do a wall-to-wall  
25   inspection, identify all the hazards and how to

1     abate those hazards. That's called an audit.

2                     And then we would also implement all  
3     the possible anchor points in the entire facility,  
4     and that's an anchor point plan. We generate  
5     drawings and show you where the drawings are.

6                     And then the employer would implement  
7     and install the anchor points using their  
8     competent persons to do that.

9                     And then we would set up the training  
10    program, train all the competent persons, and then  
11    we would help the competent person train the first  
12    thirty people, typically, within the authorized  
13    users, the workers.

14                    **Q.    You say authorized users. You're**  
15    **talking about the laborers that are going to be**  
16    **exposed?**

17                    A.    Yes.

18                    **Q.    So you walk them through how the**  
19    **training is supposed to be done?**

20                    A.    The competent person. It's called  
21    train the trainer program, and we would help train  
22    the competent persons, get them comfortable  
23    training.

24                    **Q.    And the way you would -- or part of**  
25    **the way you would do that after going through what**

1     they need to do is you'd actually walk them  
2     through doing it with the first thirty or so  
3     laborers?

4             A.     Right.  And then we would go out on  
5     the sites and make sure they're using the  
6     equipment right; and then if they weren't, we  
7     would tell -- we're training the competent person  
8     what to look for.  So we would tell the competent  
9     person what's wrong with this scenario, he's too  
10    far out, he's beyond the thirty degrees of the  
11    anchor point, he's got the wrong equipment on,  
12    whatever.

13            Q.     Have you ever been sued?

14            A.     Not on this -- not on worker issues.  
15    I have sued my employee who took confidential  
16    information.

17            Q.     Okay.  What kind of confidential  
18    information, without telling me what the  
19    information was?

20            A.     Design formulas, design methods,  
21    stuff that we created in-house.

22            Q.     Okay.  I wasn't asking you whether  
23    you sued anybody, though.  I asked if you've ever  
24    been sued.

25            A.     Well, it was a counter.  He sued and

1     then I sued back.

2                   **Q.     What were you sued for?**

3                   A.     I don't know -- that I didn't -- I  
4     don't know. It all got dissolved. I honestly  
5     don't remember. They always -- like, I didn't  
6     give him a nice room or some environment or --

7                   **Q.     An employee?**

8                   A.     Yes.

9                   **Q.     Okay.**

10                  A.     A managing partner.

11                  **Q.     So some kind of contract -- breach of**  
12 **contract claim?**

13                  A.     Unfortunately I didn't have a  
14     contract. I knew him for twenty years and his  
15     mind changed.

16                  **Q.     Okay. What was the name of the**  
17 **company then? Was that --**

18                  A.     STE.

19                  **Q.     STE, Safety Through Engineering?**

20                  A.     Yes.

21                  **Q.     And where was your lawsuit?**

22                  A.     Montgomery County, Ohio.

23                  **Q.     And when was that?**

24                  A.     2009 maybe. It went on for a couple  
25     years.

1 Q. Ultimately resolved?

2 A. Yeah.

3 Q. Not through trial or motion but some  
4 kind of other resolution?

5 A. Yes.

6 Q. Okay.

7 A. Steve was our attorney.

8 Q. Pardon?

9 A. Steve was our attorney.

10 Q. Steve Justice whose office we're  
11 using today?

12 A. Yes.

13 Q. Okay. So you've never been sued in  
14 connection with training is really what I was  
15 getting at?

16 A. No, never been sued in connection.

17 Q. So I think I understand what you've  
18 done as a qualified person. You've never actually  
19 been the competent person?

20 A. Right. I don't want to be.

21 Q. Okay. You've never actually been a  
22 laborer?

23 A. Correct.

24 Q. And you've never actually been a  
25 foreman supervising laborers, right?

1 A. Correct.

2 Q. You've never walked on a screen  
3 deck --

4 A. I've walked --

5 Q. -- true?

6 A. Well, I walked on grizzlies, which is  
7 a screen deck.

8 Q. Okay. What's a grizzly?

9 A. Grizzly is just a screen deck. A  
10 grizzly is typically a six-by-six opening.  
11 They're all different sizes, a two-by-two opening,  
12 a six-by-six opening, an eight-by-eight opening.

13 Q. When you say opening, you mean grate?

14 A. Big heavy grates. Sometimes semis go  
15 across it, dozers go across it. A lot of times  
16 they dump steel on it, they dump coal on it.  
17 Sometimes paper clippings, wood chips.

18 Q. And you've walked on one of those at  
19 height?

20 A. Not at height.

21 Q. Oh, okay.

22 A. I walked on those, designed those for  
23 a semi to pull over across at grade level. It  
24 falls into a pit and then there would be conveyors  
25 that take it up.

1           **Q.    Have you ever walked on a screen deck**  
2   **at height?**

3           A.    As I sit here today, I've not walked  
4   on grading at height.  Usually grizzlies are not  
5   at height.  Usually grizzlies are at a dumping.

6           **Q.    Right.  And you -- so --**

7           A.    Dumping elevations.

8           **Q.    Okay.  With dumping elevations do you**  
9   **have to wear fall protection?**

10          A.    Well, if it's dumping at ground  
11   level, no.

12          **Q.    All right.  I didn't know if there**  
13   **was some kind of --**

14          A.    No.

15          **Q.    -- ditch below you or something.**

16          A.    No.  It's usually some mechanism to  
17   dump out of a semi or dump out of a dump truck.

18          **Q.    Fair enough.  Again, with respect to**  
19   **the cardinal rules set forth on Exhibit B, if**  
20   **those were communicated to Mr. Lucio prior to his**  
21   **accident in a way that he could understand them,**  
22   **would you agree with me that this accident would**  
23   **not have happened?**

24               MR. BOISSONEAULT:  Objection.  Asked  
25   and answered and foundation.

1                   THE WITNESS: Even -- even if he  
2 understood it and even if it was spoken to him in  
3 an understandable way, you still have to have  
4 safety means and methods of the worker to safely  
5 connect, to safely do his job.

6 BY MR. GOLDBERG:

7                   **Q. Okay.**

8                   A. If you have no certified anchor  
9 points, no guardrails, no safety means and methods  
10 of doing his job, then he could understand them  
11 but if the culture was to keep going, then he was  
12 a trainee, as he said. He saw all these other  
13 guys doing it since '97.

14                  **Q. Well, he hadn't been there doing it**  
15 **in '97 or watching other guys in '97, right?**

16                  A. Correct.

17                  **Q. So since whenever he started going up**  
18 **there with them?**

19                  A. Yeah. The culture was there.

20                  **Q. Well, he just started going up there**  
21 **with them, like, within the prior six weeks, if I**  
22 **remember?**

23                  A. Similar to that.

24                  **Q. Okay.**

25                  A. You had Walt Deeds --

1                   **Q.     Shawn Griffin?**

2                   A.     -- Shawn Griffith -- Griffin and then  
3     you had also the plant operation manager all had  
4     been there '97, '99, and typically they wouldn't  
5     be using fall protection. They'd use it sometimes  
6     but not all the time.

7                   **Q.     Right. And when they used it, you**  
8     **understand they used the hole on the beam?**

9                   A.     The question wasn't really asked.

10                  **Q.     Okay. So they could have either used**  
11     **the hole on the beam or they could have used**  
12     **clips?**

13                  A.     Or they could have just put on the  
14     fall protection harness and did nothing.

15                  **Q.     Well, if they're saying they used it**  
16     **from time to time --**

17                  A.     That's what I understand.

18                  **Q.     -- you don't know?**

19                  A.     From all my experience, construction  
20     and general industry, when management says wear  
21     the harness, they wear the harness; and I've  
22     seen -- I've been on sites where they've drug the  
23     lanyard on the ground behind them because there  
24     was no place to connect to.

25                  **Q.     But you did read testimony that**

1     **Mr. Deeds did use the harness and hook into that**  
2     **hole that was put there by apparently, according**  
3     **to him, a cousin of Mr. Lucio? Did you read that**  
4     **testimony?**

5             A.     I don't remember hooking to the hole.  
6     I do remember him wearing the harness -- or  
7     wearing the full body harness.

8             Q.     And you remember the testimony that  
9     **Mr. Deeds said that the hole was put in there by**  
10    **Mr. Lucio's cousin.**

11            A.     The hole was torched in there by the  
12    cousin.

13            Q.     Okay.

14            A.     But you can't physically get a snap  
15    hook into the hole.

16            Q.     Okay. When you were describing the  
17    responsibility of -- strike that.

18                    Before I go there, you said you can't  
19    physically get the hook into the hole. You didn't  
20    test that yourself, did you?

21            A.     I --

22            Q.     Did you?

23            A.     I did not test it.

24            Q.     And you didn't have anybody test that  
25    for you, did you?

1           A.    I did not test that.

2           **Q.    Okay.**

3           A.    But from my experience and ANSI  
4   committee safety training, I use those as examples  
5   where you can't physically get the snap hook into  
6   the hole and close the snap hook gate. You may  
7   get the top hook of the snap hook into the hole  
8   but unless you get the keeper closed, it's not  
9   safe.

10          **Q.    Right.**

11          A.    And that geometry -- if you could do  
12   both, that geometry would blow out that keeper.  
13   It's called a roll-out failure. So, in other  
14   words, if you can get the material that's been  
15   torched out on the bottom flange to touch the  
16   gatekeeper, OSHA calls that roll-out, ANSI calls  
17   that roll-out, some of the training manuals would  
18   call that blow-out but that -- the snap hook it's  
19   rated for five thousand pounds. The side gate is  
20   only rated for like two hundred to two fifty.

21          **Q.    I understand. It's important that**  
22   **the mechanism that you're using functions properly**  
23   **and that you're not damaging it along the way,**  
24   **right?**

25          A.    Right. So you can't --

1           **Q.    And is it true that even with proper**  
2   **use, sometimes you can cause damage to your**  
3   **mechanism as you're snapping it in?**

4           A.    Not with proper use.   In use the  
5   workers can damage the hook.

6           **Q.    That's what I meant.   That's all I'm**  
7   **saying.**

8           A.    And then the competent person has to  
9   evaluate it and take it out of service.

10          **Q.    Right.   So occasionally they're going**  
11   **to wear out and somebody needs to be looking to**  
12   **make sure they are functioning okay?**

13          A.    Yes.

14          **Q.    On some kind of regular basis?**

15          A.    Yes.   OSHA --

16          **Q.    And is there a specific regular basis**  
17   **that a competent person is supposed to be checking**  
18   **those hooks to make sure they're in good shape?**

19          A.    Yes.

20          **Q.    How often is that?**

21          A.    OSHA is twelve months.   ANSI is six  
22   months to three months.   And depending on what  
23   type of service they're doing, it could be  
24   monthly.

25          **Q.    Okay.   And are you aware of any of**

1     the lanyard hooks at Fulton Mill being -- having  
2     broken mechanisms at the time of this incident?

3             A.     The record is silent.

4             Q.     Okay.

5             A.     There's no inspections of record at  
6     all.

7             Q.     Right. Okay. Next question, does  
8     the employee or laborer have any responsibility,  
9     sort of like a preflight check, to check his  
10    mechanisms on his lanyard to see if it is  
11    functioning properly, if it's going to work in the  
12    anchor point?

13            MR. BOISSONEAULT: Just note an  
14    objection as to foundation and relevance. You can  
15    go ahead and answer.

16            THE WITNESS: If the authorized  
17    workers are properly trained, which in this case I  
18    have not seen any evidence where the competent  
19    persons were even trained, let alone the at-risk  
20    worker person is trained, but OSHA requires  
21    that -- there's two levels of inspections. The  
22    competent person does a very detailed inspection  
23    and then the authorized person does a performance  
24    inspection right before he uses it every eight  
25    hours of the shift.

1 BY MR. GOLDBERG:

2 Q. So --

3 A. The snap hook --

4 Q. -- in the normal circumstance, the  
5 laborer who is going to be using the lanyard is  
6 checking it too?

7 A. Just in a very overview. If the snap  
8 hook closes, that's about it.

9 Q. Yeah. But that was the function you  
10 were talking about a few minutes ago?

11 A. But that function I was talking about  
12 a few minutes ago is when you actually connect to  
13 an incompatible hole and then that incompatible  
14 hole destroys the gate.

15 Q. Right.

16 A. So the worker upon -- before  
17 connecting, the snap hook would be fine. But when  
18 you connect it, the worker wouldn't know that it's  
19 not fine.

20 Q. Understood.

21 A. And then he could fall to his death  
22 thinking that he was connected when he really  
23 wasn't.

24 Q. But he should check to see at least  
25 that the hook is on there and that the snap

1     **hook --**

2             A.     Keeper.

3             **Q.     -- keeper is properly positioned?**

4             A.     If he's trained that way.

5             **Q.     Right. Right.**

6             A.     But I haven't seen any documents that  
7     say they've been properly trained or through the  
8     depositions.

9             **Q.     Okay. Is there any common sense**  
10    **involved in that, or no?**

11            A.     Well, no, that's a standard that just  
12    came out in 1995; and I still see today  
13    contractors and general do not understand it so  
14    it's not common sense. It's something that is  
15    trained in -- every manufacturer's fall protection  
16    system is different from their competitor by  
17    copyright -- or trade -- yeah, copy -- products  
18    are different so they can't be exactly the same.  
19    Miller, DBI, Rose, RTC, all those products are not  
20    the same and one may not function the way another  
21    one functions.

22            **Q.     Okay.**

23            A.     So that's why you need a competent  
24    person to do the training and a qualified person  
25    to make sure the competent person is doing it

1 right.

2 Q. Do you know whether Mr. Lucio would  
3 have known how to put the lanyard hook into  
4 position? Do you know whether he would have known  
5 how to do that?

6 A. From Rock Miller being the competent  
7 person that was supposed to relay all this  
8 information, and in my opinion he's not a  
9 competent person, so I think it's a noncompetent  
10 person trying to tell another noncompetent person  
11 of Fulton how to do that, then that other  
12 noncompetent person trying to tell their  
13 authorized workers how to do it, I think there's  
14 no program at all.

15 Q. Okay. But the hook is a pretty  
16 simple mechanism?

17 A. No. No, that hook is very dangerous.

18 Q. I didn't say whether it's dangerous  
19 or not, but it's like a hook on a necklace --

20 A. No.

21 Q. -- and it's -- I mean, it has a  
22 snapping catch? No?

23 A. That thing has been the root cause of  
24 many deaths. The snap hook can disengage when  
25 it's not properly attached. The snap hook can

1 disengage when it's not properly used. When the  
2 angle is beyond the manufacturer's recommendation.  
3 If it wasn't properly connected to the angle.  
4 There's a lot of elements there that that snap  
5 hook may appear to be a necklace kind of a snap  
6 hook but it's not.

7 Q. Okay. You're aware that Fulton Mill  
8 did have something called GBSAs?

9 A. Yeah.

10 Q. And that they did have a GBSA with  
11 respect to the screen deck change?

12 A. Yes.

13 Q. And you're aware that this -- the  
14 GBSA for the screen deck change called for fall  
15 protection?

16 A. It called for using a manlift and --

17 Q. A harness?

18 A. -- a harness. Yes.

19 Q. And lanyard?

20 A. Yes.

21 Q. Okay.

22 A. And an anchor point.

23 Q. Well, it didn't actually say anchor  
24 point, did it?

25 A. It didn't, but a manlift would have,

1 by definition, an anchor point.

2 Q. Okay. You're aware of the changes  
3 made after the incident, right?

4 A. Yes.

5 Q. Okay. And they added certified  
6 anchor points, right?

7 A. Yes.

8 Q. And that was with OSHA's agreement,  
9 right?

10 A. That was their settlement agreement.  
11 They came back and put in anchor points, yes, and  
12 it was done by an engineering firm.

13 Q. And there were no guardrails added,  
14 correct?

15 A. Correct.

16 Q. Okay. You've worked with OSHA  
17 before, not for OSHA, right?

18 A. Both.

19 Q. You did work for OSHA?

20 A. Not as an employee. As a consultant.

21 Q. Okay.

22 A. Against and for OSHA depending on  
23 what the case facts were.

24 Q. Okay.

25 A. About fifty percent either way.

1           **Q.    Mr. Wright, I'm not sure I asked you**  
2   **this so I apologize if I did; but you saw some**  
3   **testimony about using clips on beams or lanyards**  
4   **as well?**

5           A.    I saw testimony.

6           **Q.    Okay. Does OSHA provide for the use**  
7   **of lanyards with clips for fall protection from**  
8   **height?**

9           A.    That is a product that was first  
10 developed by DBI and then Miller and Rose has  
11 simulated the same kind of results. The --

12          **Q.    DBI is what?**

13          A.    Buck and Duncan Industries. Just DBI  
14 dot com.

15          **Q.    What is it?**

16          A.    Buck and Duncan, two last names,  
17 Industries.

18          **Q.    Oh, you said DBI, so it's BDI?**

19          A.    Buck and Duncan Industries. BDI.  
20 Yeah.

21          **Q.    Thank you. Yeah, you had said DBI.**

22          A.    Yeah.

23          **Q.    All right. So BDI is the name of the**  
24 **company?**

25          A.    For some reason they go by DBI --

1           Q.    All right.  So --

2           A.    -- but the guy's name is Buck, so I  
3   don't know.

4           Q.    All right.  Have you worked with them  
5   before?

6           A.    Yeah.

7           Q.    You're a consultant for that company,  
8   whatever -- whosever name comes first?

9           A.    Not a consultant.  More of an outside  
10   nonpaying consultant.

11          Q.    And did they develop the clips with  
12   your involvement?

13          A.    No.

14          Q.    Before your involvement?  Did you  
15   have anything to do with the clips?

16          A.    No.

17          Q.    Okay.  But, anyway, it's been  
18   developed, and my question is whether the ones  
19   done by Buck and his group or by anybody else,  
20   have they been approved for use by OSHA?

21          A.    OSHA doesn't approve any type of  
22   product.  That is a connector -- anchor connector,  
23   and OSHA wants a certified anchor point, which is  
24   the structure.  So if they use this clip and if  
25   the clip was tested and it makes -- meets the

1 standard of ANSI, OSHA would look at that as an  
2 anchor connector that met ANSI but then they would  
3 still ask the question, does the structure where  
4 it was connected to, is it capable of withstanding  
5 five thousand pounds. So you just can't use it  
6 anywhere and think it's great. So if you clamp  
7 that to a guardrail, it's still not safe. That's  
8 what's misleading about it.

9 Q. Sure. But knowing where they put the  
10 anchor points -- added the anchor points with the  
11 engineering firm on Tower 2 at the slag plant of  
12 Fulton Mill, would you agree that there would have  
13 been locations to use a clip-type lanyard back at  
14 the time of Mr. Lucio's accident?

15 A. No.

16 Q. Okay. Did they add a beam that they  
17 put the certified anchor points?

18 A. No.

19 Q. Okay. Please explain.

20 A. The clamps -- clips are designed for  
21 a horizontal beam. Where they were attaching to  
22 was on a slope. So, in other words, it would  
23 slide down the slope upon a fall and create a  
24 greater hazard. So a competent person, qualified  
25 person would never use that. It would slide down

1 the bottom flange of the beam.

2 **Q. Okay. So there needs to be a**  
3 **horizontal beam?**

4 A. Well, there needs to be what they  
5 finally did, which was to weld on lugs to connect  
6 a carabiner to the lug and then connect the  
7 carabiner to the snap hook of the lanyard in that  
8 sequence. If you connect the snap hook to the lug  
9 opening, you would still have incompatible and  
10 still be dangerous, and that's where a competent,  
11 qualified needs to train the people, don't just  
12 directly to that hole but you've got to use a nine  
13 inch carabiner and then clip to the snap hook.

14 **Q. Okay. Do you know what carabiners**  
15 **they had at Fulton Mill back after this incident?**

16 A. I didn't see any either before or  
17 after.

18 **Q. And same -- thank you. You're aware**  
19 **that Mr. Lucio received what's called contractor**  
20 **induction training from North Star?**

21 A. His awareness orientation training,  
22 yes.

23 **Q. And --**

24 A. It was two days, approximately. A  
25 few days he actually used the word.

1           **Q.    And you're aware that that also**  
2   **included fall protection or at least a brief**  
3   **discussion of fall protection?**

4           **A.    The agenda shows a brief discussion.**  
5   **I wasn't there and the question wasn't asked.**

6           **Q.    Right. But you're aware that there**  
7   **was a slide show that included slides on fall**  
8   **protection?**

9           **A.    I thought the slide show was from**  
10   **Levy Corporation. There's two slide shows? I**  
11   **remember the agenda from North Star.**

12                   **MR. GOLDBERG: Off the record.**

13                   **(Thereupon, an off-the-record**  
14   **discussion was had.)**

15                   **(Thereupon, Defendant's Exhibit C,**  
16   **PowerPoint slides, was marked for purposes of**  
17   **identification.)**

18   **BY MR. GOLDBERG:**

19           **Q.    Mr. Wright, I'm showing you what's**  
20   **been marked for identification as Defendant's**  
21   **Exhibit C. It's also marked confidential, and**  
22   **counsel and I off the record have agreed that this**  
23   **document will not be part of the regular file but**  
24   **it will be marked sealed -- produced under seal to**  
25   **the extent that anything needs to be protected**

1 down the road. All of our concern had more to do  
2 with other items than what was in here; but since  
3 it is marked confidential, we're going to try to  
4 treat it that way until otherwise. Okay?

5 A. Okay.

6 Q. First of all, I'm just showing you  
7 what's been marked as Defendant's Exhibit C, which  
8 is also NSBS\_212 and 213. It's just two pages of  
9 a slide show that was produced by North Star and  
10 ask you if you saw all of that slide show before  
11 or that part of it that I'm putting in front of  
12 you?

13 A. I've seen this page and I've seen  
14 this page.

15 Q. Okay. Very good. So all I was  
16 asking you a moment ago and asked you if you would  
17 agree that if this contractor induction training  
18 was given to Mr. Lucio, it would also have  
19 included some further emphasis on fall protection?

20 A. I wasn't in the training when it was  
21 going on. If they just read the bullets --

22 Q. Yeah.

23 A. -- and not explained what it meant to  
24 the authorized workers, that the lights are turned  
25 off and talking to them, that wouldn't be adequate

1 awareness training. It would be an orientation  
2 but not enough to use it safely.

3 Q. But it does just give some further  
4 emphasis about fall protection, right?

5 A. If all they did was read that, it  
6 doesn't give hardly anything. I don't know.

7 Q. It gives some --

8 A. Enough to blow up the lab but you  
9 don't know why the lab got blown up.

10 Q. Or enough to save the lab and you  
11 don't know why the lab was saved, in some cases?  
12 Your example.

13 A. Yeah.

14 Q. All right.

15 A. With fall protection, it's just like  
16 confined space, there's so many little elements  
17 that have to be right or you die.

18 Q. Okay. That's fair enough.

19 A. So if you do an overview and say you  
20 need more training and this is just giving you an  
21 awareness but you need more training, then that's  
22 good awareness training. I don't know what was  
23 said.

24 Q. That's fair. If one has awareness  
25 training, he should at least know when to ask a

1     **question?**

2             A.    To a competent person that is  
3     competent, yes.

4             Q.    Okay. Did you read anything about  
5     Mr. Lucio asking any questions about how he should  
6     use fall protection?

7             A.    No. He said he --

8             Q.    Okay.

9             A.    He said he was following the lead of  
10    Deeds.

11            Q.    Did you read that he acknowledged  
12    that he received fall protection and that he knew  
13    the OSHA rule regarding when to use fall  
14    protection?

15            A.    Yes.

16            Q.    Okay.

17            A.    He said what he said.

18            Q.    All right.

19            A.    But once again, if he doesn't  
20    understand what is said, it's meaningless to him.

21            Q.    And you don't know whether he  
22    understood it or not, you just know that he  
23    didn't -- he clearly didn't follow it, right?

24            A.    Well, at the time of the accident, no  
25    one had fall protection on, no one had lanyards,

1 and no one had certified anchor point connection,  
2 so he was following his trainers.

3 **Q. He's the one that fell, right?**

4 A. Correct. And Deeds was his trainer.  
5 Or Deed.

6 **Q. Everybody individually, every**  
7 **authorized worker has their own duty to follow**  
8 **instructions if they understand them, fair?**

9 A. If they understand them, if they were  
10 properly trained in accordance with OSHA, then  
11 they have a duty to follow their employer's  
12 instructions.

13 **Q. Okay. Thank you.**

14 A. That's different than what you said.

15 **Q. Okay. Your answer is fine.**

16 A. Okay.

17 **Q. You answered before that you think**  
18 **that employees do have some personal**  
19 **responsibility for their own safety, right?**

20 A. OSHA says you have to follow your  
21 employer's training and instructions, and then  
22 OSHA assumes that your employer has properly  
23 trained and properly instructed you so then they  
24 say to authorized workers, you follow -- you have  
25 to follow your employer's training and

1 instructions, assuming that they were in  
2 compliance with OSHA requirements.

3 Q. Bigger question, though, or a more  
4 general question, do you agree that employees have  
5 some responsibility for their own personal safety?

6 MR. BOISSONEAULT: Objection. Asked  
7 and answered.

8 THE WITNESS: It is not common sense  
9 at heights.

10 BY MR. GOLDBERG:

11 Q. I'm not --

12 A. It's not a yes or no.

13 Q. Whatever knowledge they might have,  
14 do they have personal responsibility for their own  
15 safety to act in accordance with what they do  
16 know?

17 A. On a worker site, they have  
18 responsibility to follow their employer's  
19 instructions and training requirements, that's it.

20 Q. Yeah, but you're answering --

21 A. OSHA.

22 Q. -- something that I'm not asking you.  
23 I'm asking you a specific question, not about  
24 whether they have a responsibility to follow what  
25 they're taught or follow what they're told, I'm

1 asking whether they have personal responsibility  
2 for their own safety?

3 MR. BOISSONEAULT: Objection. Asked  
4 and answered.

5 THE WITNESS: Their own personal  
6 safety comes through the knowledge, training, and  
7 experience of their employer.

8 BY MR. GOLDBERG:

9 Q. And then they have to act in  
10 accordance with that?

11 A. Yes, if they --

12 Q. Okay.

13 A. If they were trained properly, which  
14 they weren't, if they had exposure of proper skill  
15 sets from their competent persons, which they  
16 didn't, then they have to follow that example.

17 Q. And if they had no training but they  
18 just were really smart like you --

19 A. No.

20 Q. -- do -- would you have  
21 responsibility? If you were trained by nobody  
22 when you went on this work site but you got a job  
23 at Fulton Mill, would you have personal  
24 responsibility, do you believe, for your own  
25 safety?

1           A.     With fifteen years experience over  
2     fifteen hundred hours of classroom training by  
3     OSHA, based on that, then I would have  
4     responsibility --

5           **Q.     Okay.**

6           A.     -- because I'm a qualified person.  
7     He's not a qualified person.

8           **Q.     So you think you either have to be a**  
9     **qualified person or a competent person or -- in**  
10    **order to know to use fall protection equipment?**

11          A.     No.

12          **Q.     Okay.**

13          A.     You have to be an authorized person  
14     that has been properly trained, shown the proper  
15     safety means and methods of using it, and then you  
16     have a responsibility to follow your employer's  
17     directions.

18          **Q.     All right. So an authorized worker**  
19     **does have responsibility to follow rules?**

20          A.     Once they were properly trained in  
21     accordance with OSHA, yes.

22          **Q.     And he has a responsibility to follow**  
23     **training he's been given?**

24          A.     If the training was in accordance  
25     with OSHA, yes.

1           **Q.    Okay.  And he has responsibility to**  
2   **use available safety equipment?**

3           A.    If the available safety equipment --  
4   safety means and methods are available and safe to  
5   use and his competent person employer trained him  
6   to do it that way, then he has a responsibility to  
7   follow his employer's instructions.  It all goes  
8   back to employer's training.

9           **Q.    So you do believe that if the rules**  
10   **and training call for it, a person has**  
11   **responsibility to use available safety equipment**  
12   **consistent with that training?**

13           MR. BOISSONEAULT:  Objection.  Asked  
14   and answered.

15           THE WITNESS:  In theory, consistent  
16   with that training.

17   BY MR. GOLDBERG:

18           **Q.    Okay.**

19           A.    But you have to have a certified  
20   anchor point, which in this case we don't have --

21           **Q.    Okay.  Aside from whether you**  
22   **think --**

23           A.    -- so you can't use it.

24           **Q.    Oh, pardon me.**

25           A.    You can't use it.  I'm sorry.

1 There's no place to connect your lanyard to.

2 Q. I know that that's your belief and I  
3 know that you haven't been there; but if it is  
4 capable of being used, it is the responsibility of  
5 the employee to use available safety equipment?

6 MR. BOISSONEAULT: Objection. Form  
7 and foundation.

8 THE WITNESS: Hypothetically, if  
9 there's a safety means and methods to use fall  
10 protection equipment in accordance with OSHA, an  
11 employee has a responsibility to do as his  
12 employer has instructed and trained him to do. So  
13 if it's there -- hypothetically, if it's all  
14 there, he has a responsibility to use it as he's  
15 been trained.

16 BY MR. GOLDBERG:

17 Q. Okay. That's all I'm asking. It's  
18 not really a complicated question for you.

19 A. It's a complicated --

20 Q. Mr. Wright, do you ever believe that  
21 an employee should use common sense? I'm not  
22 asking you to define common sense.

23 A. You have to define it.

24 Q. You know what common sense is. Do  
25 you have an understanding of what common sense is

1     **without giving me a definition?**

2             A.     Common sense --

3             **Q.     No, without giving me a definition,**  
4     **do you have an understanding of what you think it**  
5     **is?**

6             A.     Common sense to me is not common  
7     sense to you.

8             **Q.     That's fine. Do you have an**  
9     **understanding of what common sense is?**

10            MR. BOISSONEAULT: Just note an  
11     objection.

12     BY MR. GOLDBERG:

13            **Q.     Yes or no?**

14            MR. BOISSONEAULT: Foundation.  
15     Relevance.

16            THE WITNESS: I have a definition of  
17     what I think common sense is.

18     BY MR. GOLDBERG:

19            **Q.     Great. Okay. Do you think that**  
20     **people have a responsibility to use their common**  
21     **sense -- their own common sense?**

22            A.     Their own common sense comes from  
23     historical events, either training or accidents.

24            **Q.     Right.**

25            A.     That's common sense.

1                   **Q.     Okay.**

2                   A.     So if I didn't go through those  
3     historical trainings or accident events, I  
4     wouldn't have that common sense. Common sense is  
5     not common.

6                   **Q.     Okay. You don't know what**  
7     **Mr. Lucio's common sense was, right?**

8                   A.     Only from the record.

9                   **Q.     Well, is it -- in your understanding**  
10    **of common sense, do you agree that some people**  
11    **don't have it? Have you ever said that guy may be**  
12    **smart but he has no common sense? You ever heard**  
13    **that expression?**

14                  A.     Those are usually professors. Yes.

15                  **Q.     Do you believe that people have a**  
16    **responsibility -- a personal responsibility to be**  
17    **careful?**

18                   MR. BOISSONEAULT: Objection.  
19     Foundation.

20                  THE WITNESS: You've asked that  
21    before, and it's based on their training level --  
22    in an employee setting it's based on their  
23    training, experience, application, and supervision  
24    of their employer and the enforcement of the  
25    employer and the training that your employer had.

1 BY MR. GOLDBERG:

2 Q. And based on whatever it is that they  
3 do know and whatever training they received, they  
4 should be careful? They're duty-bound to be  
5 careful, in your mind?

6 A. Your hypothetical assumes that they  
7 were in compliance with OSHA -- all the training  
8 was in compliance with OSHA. If it was in  
9 compliance with OSHA and in compliance with ANSI  
10 and there was proper supervision by the competent  
11 person, then they have a duty to be in compliance  
12 with their competent person's directions.

13 Q. Okay. Never worked at a slag plant,  
14 true?

15 A. I have not.

16 Q. You've never worked at a job as a  
17 laborer where your job required you to wear a  
18 safety harness, true?

19 A. I wore a safety harness many times  
20 but not --

21 Q. Not as a laborer?

22 A. Not as a laborer.

23 Q. Never worked as a foreman or a  
24 supervisor on a job site, true?

25 A. Correct. You've asked me that.

1                   **Q.     Never designed a slag plant, true?**

2                   MR. BOISSONEAULT:   Objection.

3   Relevance.

4                   THE WITNESS:   I designed a Gary,  
5   Indiana plant that Rock came from, I believe.

6   BY MR. GOLDBERG:

7                   **Q.     What design -- what Gary, Indiana**  
8   **plant did you design?**

9                   A.    Well, if you look at Rock's  
10   deposition.

11                  **Q.     No, I'm asking you.   I don't have**  
12   **Rock here.   What Gary, Indiana plant did you**  
13   **design?**

14                  A.    I don't know.   From what Rock Miller  
15   described where he previously worked at, that's a  
16   similar definition of the location where I  
17   designed the grizzlies, the elevator, the mixing  
18   tower of U.S. Steel in Gary, Indiana back in the  
19   late '80s, I think.   But I'm not sure if it's the  
20   same one.   U.S. Steel is massive.   I've never been  
21   to the site.

22                  **Q.     Okay.**

23                  MR. GOLDBERG:   What question did I  
24   ask?

25                               (Record read.)

1 BY MR. GOLDBERG:

2 Q. Was that facility at U.S. Steel a  
3 slag plant?

4 A. It was a part of making steel.

5 Q. Okay.

6 A. So I don't know if you want to call  
7 that part a slag part, but it was a part of this  
8 massive long -- mile long facility.

9 Q. And you designed the whole thing?

10 A. No. Just the --

11 Q. So did you ever design a slag plant  
12 within this whole U.S. Steel facility?

13 A. Well, see, that was back in my early  
14 days in the '90s. It was U.S. Steel and it was a  
15 part of the steel making process, and it had  
16 grizzlies, it had elevators, it had pits, it had  
17 multiple levels of conveyors that dump into other  
18 pits and hoppers, but I don't know if that was in  
19 the beginning of making steel or the back end of  
20 the slag process.

21 Q. Okay. So you're not sure if you  
22 designed a slag plant?

23 A. I'm not sure.

24 Q. Okay.

25 A. I've designed something in the steel

1 industry.

2 Q. But if you did, it was in the late  
3 1980s at U.S. Steel in Gary, Indiana?

4 A. Yeah.

5 Q. Thank you.

6 A. You're welcome. It's called the  
7 mixer building if that helps.

8 Q. It was inside of the building?

9 A. No, it's all outside. It's all open.  
10 You see all the structure but it's called a mixer  
11 building. Building doesn't mean it has to be  
12 enclosed. Maybe a mixing structure instead of a  
13 building, but I think they used mixer building.

14 Q. And who were you employed by at the  
15 time you did your design work? What was the name  
16 of your firm?

17 A. Lockwood, Jones & Beals.

18 Q. Is that still in business?

19 A. Yes.

20 Q. Lockwood, Jones & --

21 A. Beals, B E A L S, in Dayton, Ohio.

22 Q. Are you still involved in that  
23 company?

24 A. No.

25 Q. When did you discontinue working at

1     **Lockwood, Jones & Beals?**

2             A.     December 2003.

3             **Q.     That's when you started consulting on**  
4     **your own?**

5             A.     Yes. I was one of the major owners  
6     of that company previously.

7             **Q.     When you say major, you know, what**  
8     **does that mean percentagewise?**

9             A.     I mean, I don't know. Fifteen to  
10    nineteen percent, somewhere in there.

11            **Q.     Okay.**

12            A.     There were eighteen owners.

13            **Q.     And it was an engineering firm or**  
14    **architecture and engineering?**

15            A.     It was a major engineering firm and  
16    we started doing architecture. So I guess in  
17    theory it's an engineer/architecture firm.

18            **Q.     Back in the '80s when you did your**  
19    **design work on the mixing building at U.S. Steel,**  
20    **was there architecture involved by your firm or**  
21    **was it just engineering work?**

22            A.     Just structural engineering, that's  
23    all.

24            **Q.     And when I say just, I just mean as**  
25    **distinguished from architecture.**

1           A.    Yeah, just structural engineering.

2           **Q.    Okay.  Thanks.**

3           A.    Yeah.

4           **Q.    You've never designed a screen deck**  
5   **for a hopper at a slag plant, can we at least**  
6   **agree on that?**

7           A.    Yes.

8           **Q.    Okay.  Have you ever designed any**  
9   **residential buildings?**

10          A.    Yes.

11          **Q.    For?**

12          A.    Typically for doctors.  Usually for  
13   an architect.  And it's usually a piece of the  
14   buildings.  The architect does most of it and if  
15   it's something unusual an architect didn't know  
16   how to do, then I would do that piece, like a  
17   basement or a major cathedral ceiling or caissons  
18   to the building because it was too close to a  
19   river and it would be eroded and slide down the  
20   hill.

21          **Q.    Cool.**

22          A.    The more fun part.

23          **Q.    I understand you haven't been to the**  
24   **slag plant at Fulton Mill.  Have you ever been to**  
25   **any slag plant?  And I don't mean what might have**

1     **been part of a steel process. Have you -- do you**  
2     **know of any slag plants you've ever visited?**

3             A.     I have a list of all the steel  
4     facilities I've worked at. Most of those have  
5     slag divisions, but I don't remember being  
6     specifically on the slag issue.

7             Q.     Okay. So have you ever had a case  
8     before, as a consultant, where you've had a  
9     criticism of somebody with respect to an injury or  
10    death from someone falling at a slag plant?

11            A.     As I sit here one way or another, I'm  
12    not sure about slag plant. I have with steel  
13    plants which would include slag, and I have a  
14    CV --

15            Q.     Okay. That's where we'll break.  
16    Nothing with slag plants but you have with steel  
17    plants, and we'll talk about those?

18            A.     Yeah, I'm not sure with slag plants.

19                   MR. GOLDBERG: Let's break.

20                   (Pause in proceedings.)

21    BY MR. GOLDBERG:

22            Q.     What steel plants have you had --  
23    have you worked -- strike that.

24                   You mentioned that you've consulted  
25    on some falls at steel plants so why don't you

1     **just tell me the names of the plants, the**  
2     **companies?**

3             A.     I either consulted as an expert  
4     witness or been there as a design and structural  
5     engineer. You want a list of them?

6             **Q.     You mean before an accident?**

7             A.     Before an accident it would be a  
8     design and structural engineer; and then as an  
9     expert witness, it would be after the accident.

10            **Q.     All right. Let's start with the ones**  
11   **where you did work as a design and structural**  
12   **engineer. That was U.S. Steel in Gary?**

13            A.     U.S. Steel. Temkin in maybe Canton,  
14   Ohio. A steel mill down in Middletown. What's  
15   that called?

16            **Q.     We'll just say Middletown, Ohio?**

17                   MR. BOISSONEAULT: Nucor?

18                   THE WITNESS: No. Whatever that was  
19   called. And then there's a steel mill in Kentucky  
20   and along the Ohio River that I was involved in by  
21   Nova Steel. Nova Steel was involved. I'm not  
22   sure who owned what.

23            BY MR. GOLDBERG:

24            **Q.     Okay. So your -- are those the only**  
25   **ones that you worked as a structural design**

1     **engineer?**

2             A.    I'm thinking.  Those are the ones  
3     that come to my mind right now.

4             **Q.    Okay.  Very good.  And --**

5             A.    AK Steel in Middletown.

6             **Q.    Case?**

7             **MR. TICKNOR:  AK.**

8     BY MR. GOLDBERG:

9             **Q.    Oh, AK Steel.**

10            A.    Yeah.

11            **Q.    And did you design something that was**  
12     **later allegedly involved in a fall?**

13            A.    No.

14            **Q.    Oh, okay.  I guess I misunderstood.**

15            A.    Most of those steel mills that I  
16     mentioned I was either doing structural analysis  
17     of decks -- of their existing decks, is it strong  
18     enough to walk on steel.  Some of the decks you  
19     could actually see daylight through and they were  
20     concerned people were going to fall.  Some of the  
21     mills were installing additional crane systems or  
22     machine foundations that they wanted structural  
23     engineering provided.

24            **Q.    Were there resulting falls at any of**  
25     **those facilities?**

1           A.    No.

2           Q.    Okay.  I misunderstood --

3           A.    No.

4           Q.    -- what you were saying before.  You  
5   were just saying you worked at steel mills as a  
6   structural --

7           A.    Engineer.

8           Q.    -- engineer; whether there were falls  
9   or not down the road, you don't know, I guess?

10          A.    Correct.

11          Q.    Okay.  And you've also worked as a  
12   consultant or potential expert witness with steel  
13   mill accidents?

14          A.    Yes.

15          Q.    And what companies have those  
16   involved as far as the steel mills?

17          A.    I have --

18          Q.    And just limit it to falls from  
19   height.  That's all I'm really interested in.

20          A.    Okey-doke.  Falls from objects at  
21   height?

22          Q.    Where there should have been either  
23   anchor points or -- and the use of harnesses or  
24   there should have been a guardrail and there  
25   wasn't or there was and somebody fell anyway?

1           A.     One case was for OSHA in Colorado.  
2     It was a steel mill at a blast furnace and there  
3     should have been guardrails.

4           **Q.     What was the name of the case?**

5           A.     I don't know yet. I just wanted to  
6     say it so I would not forget it.

7           **Q.     Thank you.**

8           A.     Republic Steel was a fall, lack of  
9     guardrails.

10          **Q.     Name of the plaintiff?**

11          A.     Bottom one.

12          **Q.     Feltner, F E L T N E R, right?**

13          A.     Yes.

14          **Q.     Versus Republic Engineered Products,**  
15     **August of 2010, you were for plaintiff, and it was**  
16     **Timothy Feltner. And you said that was in**  
17     **Colorado but it was an Ohio attorney?**

18          A.     No, that's a different topic.  
19     Colorado, I don't know that yet.

20          **Q.     Oh, okay.**

21          A.     So this one is in Ohio.

22          **Q.     Okay.**

23          A.     And the guy was in a confined space  
24     and they opened up the door and there wasn't  
25     supposed to be water in the door and there was

1 water behind the door and it got washed -- that  
2 guy got washed away as a subcontractor to Republic  
3 and he fell twenty feet onto steel tracks. Okay.

4 Q. Was it the guardrail that caused him  
5 to die -- the lack of a guardrail that caused him  
6 to die, in your opinion?

7 A. It was a couple things.

8 Q. Did you testify that --

9 A. No.

10 Q. -- he died because of a lack of a  
11 guardrail?

12 A. The case got settled on -- after my  
13 report. I didn't get -- I don't even think I did  
14 a deposition.

15 Q. Did you give the opinion that he died  
16 because of the lack of a guardrail?

17 A. The guardrail wasn't adequate. The  
18 confined space was a problem. The host employer  
19 didn't check out the confined space properly.  
20 There wasn't any restraint system for him to not  
21 get washed over the existing guardrail.

22 Q. By restraint system, you're talking  
23 about a fall protection harness and lanyard of  
24 some kind?

25 A. Yes.

1                   **Q.    There was nothing available for that?**

2                   A.    Correct.

3                   **Q.    Okay.  What other cases?  Something**  
4 **in Colorado you were looking for I know, too.**

5                   A.    Let's see.  This one I believe is  
6 falling off one of those massive dump trucks, Eucs  
7 they're called, in a steel mill area when they're  
8 dumping into a grizzly and there wasn't any  
9 guardrail on the machine.

10                  **Q.    Was it a dump truck or was it a**  
11 **machine?**

12                  A.    They're called Eucs.  It looks like a  
13 massive dump truck that's illegal to drive on a  
14 road.

15                  **Q.    Okay.**

16                  A.    I don't know if you've seen those.  
17 They're like ten foot high tires and four foot  
18 wide tires.  They're massive.  And then the bed,  
19 it holds like four dump truck loads.

20                  **Q.    Okay.**

21                  A.    And it goes back and forth, back and  
22 forth.  And the operator got out and slipped and  
23 there were no guardrails around him to catch him.

24                  **Q.    Got out of a driver's seat?**

25                  A.    Yeah.  He got out and he's elevated,

1 I don't know -- I don't remember all the facts  
2 now. He's elevated --

3 Q. Did you testify in that case?

4 A. No, just a report.

5 Q. And that's Stamps versus Mittal  
6 Steel. And that was where?

7 A. Indiana.

8 Q. Where?

9 A. I don't know. The attorney is there.

10 Q. Okay. Any -- did you find -- Jeff  
11 Wrage, W R A G E?

12 A. I didn't know if you need that or  
13 not.

14 Q. No, I didn't need it, but thank you.  
15 Well, let me look at it for a second. Well, the  
16 very bottom one it says Colorado, doesn't it?

17 A. I thought it said Oregon.

18 Q. Oh, the lawyer is from Colorado.

19 A. It's an OSHA case. I'm not sure if  
20 it's even on there. It should be but it may not  
21 be.

22 Q. But you don't remember the name of  
23 it?

24 A. I think it was Colorado Steel or  
25 Colorado Republic Steel or something like that.

1 It was around Denver.

2 Q. Is there an extra copy of this list  
3 of steel mill expert witness case history?

4 A. Yes.

5 Q. Okay. May I take it and we'll mark  
6 it as Exhibit D?

7 (Thereupon, Defendant's Exhibit D,  
8 steel mill expert witness case history, was marked  
9 for purposes of identification.)

10 BY MR. GOLDBERG:

11 Q. Mr. Wright, showing you what's been  
12 marked as Defendant's Exhibit D, this is a list of  
13 seventeen cases that you have labeled steel mill  
14 expert witness case history, right?

15 A. Yes.

16 Q. And that's what you were just looking  
17 at a moment ago?

18 A. Yes.

19 Q. You identified whether you were on  
20 the plaintiff's side or the defendant's side and  
21 there are a few of each, mostly plaintiff, right?

22 A. Yeah.

23 Q. Okay. And I guess right offhand as  
24 you look at this quickly, you don't know what  
25 involved a fall from height specifically?

1           A.    Not -- not all of them.  As I said --

2           Q.    And I won't ask you to go through it  
3   and try to search your memory.

4           A.    Yeah.

5           Q.    Have you ever been involved in the  
6   design of a shaking screen deck that has  
7   vibrations like the one in this case when it's in  
8   operation?

9           A.    I've been involved in shaking  
10   grizzlies.  The one at Inland -- General Motors,  
11   Inland in Dayton on Third Street.

12          Q.    Tell me about that case.

13          A.    It wasn't a case.  I designed it.

14          Q.    Oh, you designed it.  Tell me what's  
15   a shaking grizzly.

16          A.    Well, it comes in two phases, just  
17   like this one does.  You'd have a grizzly.  I  
18   think that grizzly was six-by-six.  It might have  
19   been eight-by-eight but I think it was six-by-six  
20   openings, and a semi dump truck comes back and  
21   dumps into the grizzly and then the grizzly has  
22   hoppers below and the hoppers shake and then when  
23   it goes through the hoppers, it goes up the  
24   conveyor into the feeding chamber where it dumps  
25   the coal into the furnace to make electricity.

1           Q.    Was there any fall protection that  
2    you designed in that or was that the -- I thought  
3    you said the grizzly was something at ground  
4    level?

5           A.    Typically they are.

6           Q.    Okay.  So no fall protection in that  
7    situation?

8           A.    Not that situation.

9           Q.    Okay.  Any vibrating decks that are  
10   designed to vibrate that you've ever been involved  
11   in designing that are above ground level or more  
12   than four feet over ground level?

13          A.    There's HVAC scrubber hoppers for  
14   General Motors that vibrate to collect the EPA  
15   particles and they vibrate, and I designed the  
16   platforms to sit their vibrating scrubbers on and  
17   it has a guardrail around it, on top of roofs,  
18   throughout GM.  Like fifty -- no more than  
19   fifty-three plants of GM.  GM has got like a  
20   hundred and thirty, but I only worked at about  
21   fifty-three plants.

22          Q.    And that was around what did you call  
23   it?  HVAC what?

24          A.    Well, they're EPA scrubbers with a  
25   platform.

1           **Q.    Do you have pictures of that or**  
2 **drawings that you've done?**

3           A.    No.  I wish I -- a lot of the  
4 buildings have been tore down through the GM  
5 remodeling.

6           **Q.    Okay.  You're not aware of any EPA**  
7 **scrubbers you've designed --**

8           A.    That survived --

9           **Q.    -- platforms that still exist?**

10          A.    There may still be some in Delco GM  
11 on Woodman Street in Dayton, Ohio.  When GM --

12          **Q.    What street?**

13          A.    Woodman.  When GM went through their  
14 restructuring bankruptcy in 2008, a lot of the  
15 plants got either decommissioned, destroyed, or  
16 sold.

17          **Q.    Okay.  And do you know of a frequency**  
18 **at which these rubber decks, platforms were**  
19 **vibrating?**

20          A.    Huh-uh.  No.

21          **Q.    Okay.**

22          A.    I did at the time of the design but I  
23 don't remember now.

24          **Q.    Sure.  And you said these were on the**  
25 **roofs of buildings?**

1           A.    Yes.

2           **Q.    And was the guardrail -- how high up**  
3 **was the platform above the roof surface?**

4           A.    Six feet, typically. Not high. Then  
5 you have a platform, a guardrail around that with  
6 stairs going up to it.

7           **Q.    Okay. So the platform is where the**  
8 **guardrail was?**

9           A.    Yes, around the vibrator.

10          **Q.    Okay. And the vibrating thing, is**  
11 **that what it's called, the scrubber?**

12          A.    Yes.

13          **Q.    Was it a -- separated from the**  
14 **platform itself?**

15          A.    Well, it was --

16          **Q.    Separate structure?**

17          A.    It was isolated on the structure I  
18 designed by springs. So basically their unit sat  
19 on my platform with springs, very similar to what  
20 this unit is.

21          **Q.    Okay. Do you have any knowledge as**  
22 **to whether the guardrails on any of the scrubber**  
23 **platforms that you designed, whether they ever**  
24 **failed or whether they always functioned without**  
25 **requiring maintenance?**

1           A.    They all --

2           **Q.    Do you know?**

3           A.    Yes.

4           **Q.    Okay.**

5           A.    I'm always the first to know if  
6 something fails that I designed.

7           **Q.    Not if you're not there anymore.**

8           A.    If it's got a record who designed it,  
9 I'm usually one of the first to know. I was an  
10 outside consultant for General Motors for, like,  
11 thirty-five years and still -- actually, forty  
12 years, I'm still an outside consultant with  
13 General Motors, and there's never been a failure.

14          **Q.    Reported to you?**

15          A.    Reported to me.

16          **Q.    Okay. Thank you.**

17          A.    Yes.

18          **Q.    Has there ever been a failure**  
19 **reported to you on anything you've designed? You**  
20 **said you're always the first to know.**

21          A.    Yeah. I've never -- nothing comes to  
22 mind that I've ever designed that was a failure.  
23 I've been accused of overdesigning many times.

24          **Q.    Okay. Fair to say that you've never**  
25 **been retained to test the vibrations on a slag**

1     **plant tower?**

2             A.     Say one more time.

3             **Q.     You have never been retained to**  
4     **test --**

5             A.     Test.

6             **Q.     -- vibrations on a slag plant tower;**  
7     **is that fair?**

8             A.     That's fair.

9             **Q.     Okay. And you have not done any**  
10    **testing on the vibrations of the slag plant at**  
11    **Fulton Mill, true?**

12            A.     Correct.

13            **Q.     Okay. As part of your preparation**  
14    **for this case, did you look for other slag plants**  
15    **around the country or around the world to see how**  
16    **they were designed?**

17            A.     Other than what my familiarity of how  
18    the previous plants were designed, I didn't go  
19    beyond that.

20            **Q.     Okay. Do you have photographs or**  
21    **documentation of any slag plant screen deck towers**  
22    **that had guardrails around the screen deck itself?**

23            A.     No.

24            **Q.     Okay.**

25            A.     Most plants you weren't allowed to

1 have cameras.

2 Q. Okay. But are you aware of any slag  
3 plant screen deck on a tower that you've seen that  
4 does have a guardrail around the screen deck?

5 A. As I sit here today, all the  
6 facilities that I have listed and all the  
7 facilities that I mentioned I have never seen one  
8 that wasn't protected by guardrails. Typically  
9 always guardrails. There may have been fall  
10 protection anchor points in addition if they had  
11 to take the guardrails down for whatever reason  
12 for maintenance, but I've never seen -- if it's a  
13 working surface, I've never seen one without  
14 protection on it.

15 Q. I think you said you've never looked  
16 at a -- been at a slag plant personally so you're  
17 looking at just the steel mill itself, right?

18 A. I'm looking at these -- Exhibit D,  
19 those -- all those sites --

20 Q. Right.

21 A. -- and then all the sites I  
22 previously talked about which I said I cannot  
23 distinguish the slag phase to the whole phase.

24 Q. Right. I understand.

25 A. So all those --

1           Q.    I understand by and large you've seen  
2 guardrails on working surfaces except where you  
3 said they were lacking?

4           A.    No, I didn't say that.

5           Q.    I thought one of the cases you  
6 testified in was there was no guardrail and no  
7 tie-off?

8           A.    There was a guardrail, no tie-off,  
9 and the guardrail wasn't high enough. The water  
10 pushes him up and over. The guardrail should have  
11 been like forty-eight inches. The whole thing was  
12 they shouldn't have had that tank filled with  
13 water when they opened up the door, the door  
14 flushed --

15          Q.    Yeah, that seems to be --

16          A.    -- it through. Weird.

17          Q.    That seems to be what you called the  
18 root cause, I think?

19          A.    Yes. Definitely.

20          Q.    But as you sit here right now,  
21 there's not one of your seventeen or so steel mill  
22 list that involved a fall from a slag plant screen  
23 deck?

24          A.    Correct.

25          Q.    And as you sit here right now, you

1     can't tell me that you personally saw a guardrail  
2     around a slag plant screen deck?

3             A.     Correct.

4             Q.     Okay. And just to close the loop,  
5     rather, what you did say is that with respect to  
6     all of the items listed on Exhibit D --

7             A.     Steel mills.

8             Q.     -- at the steel mills involving the  
9     surfaces where there were falls -- and not all of  
10    those involved falls, the steel mill?

11            A.     Broader than that. All the steel  
12    mills that I've seen either through cases or  
13    through design, working surfaces had guardrails.

14            Q.     Right. Okay. Let's go on to  
15    training because I know earlier you said if the  
16    trainer is trained properly, the trainees are  
17    trained properly. And you've been involved in  
18    training both trainers and trainees?

19            A.     Right, and qualified -- and  
20    engineers.

21            Q.     You've done a lot of training?

22            A.     Yes.

23            Q.     You've done a lot of fall protection  
24    training?

25            A.     Yes.

1           Q.    When did you start doing fall  
2 protection training?

3           A.    I started getting into fall  
4 protection and all the elements within fall  
5 protection probably in '88 or '89.

6           Q.    And did you do that on behalf --  
7 initially, because I know you started your company  
8 in 2003 -- or your current company, did you do  
9 that with --

10          A.    Lockwood, Jones & Beals.  Yes.

11          Q.    -- Lockwood?

12          A.    Yes.

13          Q.    Starting in what year were you with  
14 Lockwood?

15          A.    '78.

16          Q.    Okay.  So if you got into fall  
17 protection in '88 or '89, that would have been  
18 with Lockwood?

19          A.    Yes.

20          Q.    Anybody else that you -- by whom you  
21 were employed that you did fall protection  
22 training other than as an employee of Lockwood  
23 consulting, another company?

24          A.    I lost you there.

25          Q.    Have you worked for anybody else

1     **other than Lockwood?**

2             A.     No.

3             **Q.     And up until 2003?**

4             A.     Correct.   December.   Yes.

5             **Q.     And can you estimate for me how many**  
6     **times you've done fall protection training?   Many,**  
7     **many?**

8             A.     At least a hundred.   Maybe two  
9     hundred.

10            **Q.     Have you done it at any companies**  
11   **more than once?**

12            A.     Yes.

13            **Q.     Give me some examples.**

14            A.     Like Honda, it's a whole program so  
15   you have multiple training.   They'd have maybe  
16   three hundred people and you train thirty at a  
17   time.   Danis Construction Company in Dayton, I  
18   trained a hundred and fifty-two of their foremen  
19   for construction, fall protection.   General  
20   Motors, off and on through all their plants I  
21   would train them in groups of thirty.   I don't  
22   want to train any more than thirty at a time.

23            **Q.     Okay.   So when you said a hundred and**  
24   **fifty at Dana in Dayton, that was of groups of**  
25   **thirty or less?**

1           A.    Yes.  And the same way with Honda.

2           **Q.    I didn't mean to interrupt you,**  
3   **though.  You were on GM off and on.**

4           A.    All their plants, sometimes they'd  
5   have to pull in additional plants to get a class  
6   of thirty, but I would train thirty at a time.  It  
7   was always at GM.  And all the previous ones I  
8   told you was competent person training so they  
9   would in turn train their authorized workers.

10          **Q.    And when you did that, you did your**  
11   **best to make sure the competent person was well**  
12   **enough trained by training the first thirty with**  
13   **the competent person?**

14          A.    I trained the competent persons and  
15   then they became trained -- trainers for all their  
16   users, authorized workers, and then I would train  
17   them and go to the site and make sure they're  
18   training properly for all their authorized users.

19          **Q.    So that would involve you watching**  
20   **the competent person do some training?**

21          A.    Yes.

22          **Q.    And that would involve you --**

23          A.    Critiquing.

24          **Q.    -- doing training of the authorized**  
25   **persons in the presence of the competent person as**

1     **well?**

2             A.     Sometimes. I try not to do that  
3     because it takes away their power.

4             **Q.     Okay. Anybody other than Honda,**  
5     **Dana, and GM?**

6             A.     Ford.

7             **Q.     Okay. And how often for Ford?**

8             A.     Ford, I set up their video training.  
9     They had eight hours of video training. I wrote  
10    the script on Ford. GM I wrote the -- some of the  
11    manuals for GM. Honda I --

12            **Q.     Same -- and this is for fall**  
13    **protection?**

14            A.     Yes.

15            **Q.     Okay.**

16            A.     Honda I wrote their entire program.

17            **Q.     So that would mean videos and**  
18    **manuals?**

19            A.     Yes, and training procedures. And  
20    Proctor & Gamble, I wrote their entire program  
21    globally for them.

22            **Q.     And when you wrote it, did you also**  
23    **again train --**

24            A.     Yes.

25            **Q.     -- the competent person and make sure**

1     **that they knew how to train the employees?**

2             A.     Yes.

3             **Q.     And you did that with Ford, too?**

4             A.     Ford was limited to their highest  
5     level competent persons and qualified persons, and  
6     then they would take it from there. I probably  
7     only trained about thirty of Ford's, and then they  
8     would turn around and grab thirty more people to  
9     bring them up to competent person and then they  
10    would take it from there. Ford was kind of  
11    independent. They wanted to do it themselves.

12            **Q.     Okay. Anybody else?**

13            A.     Yes. Boeing in Washington, I trained  
14    thirty-five qualified design engineers. I brought  
15    them up to qualified person level to design fall  
16    protection systems on their 747, their 777,  
17    their -- what is that? Is that 657, 777?

18            **Q.     Bunch of airplanes?**

19            A.     Big monster airplanes.

20            **Q.     All right. Got it. Anybody else?**

21            A.     United Airlines out of San Diego, a  
22    lady named Wendy, I forget her last name, she was  
23    the competent person that I trained. Then I  
24    helped her review how to train other workers  
25    within their facility in San Diego -- San

1       Francisco.   Sorry, San Francisco.

2                   **Q.    When was that?**

3                   A.    2000 maybe.

4                   **Q.    Wendy must have made an impression on**  
5 **you?**

6                   A.    Well, she kept getting married and I  
7 kind of lost the last name.

8                   **Q.    Okay.  I just mean you didn't mention**  
9 **anybody else's name at the other companies.**

10                  A.    Oh, Boeing was --

11                  **Q.    That's all right.**

12                  A.    I could go through all the --

13                  **Q.    That's all right.  What year was**  
14 **Boeing or years?**

15                  A.    '96 and '97.

16                  **Q.    All right.  And Procter & Gamble?**

17                  A.    '98 through 2000.

18                  **Q.    Every year?**

19                  A.    It's global.

20                  **Q.    So every year you've done --**

21                  A.    I went to all the plants and trained  
22 in the United States and a little bit in Canada  
23 for Boeing and then they brought in all their  
24 internationals and I trained all their  
25 internationals in Mexico.

1           **Q. Did you do videos for them, too?**

2           A. That's all part of the training.

3 It's all hands on. Yeah.

4           **Q. I don't know what part of the**  
5 **training, so that's why I'm asking you. You**  
6 **mentioned you did eight hours of videos for Ford**  
7 **so I'm asking if you did videos for P&G, too?**

8           A. I did not do -- Ford wanted only  
9 video training.

10          **Q. Right.**

11          A. And I said typically you've got to do  
12 hands-on training for people to get it. That's  
13 all they wanted to do and they're going to take it  
14 themselves to do hands-on training.

15                 With Procter & Gamble I did video  
16 training, hands-on training, equipment training,  
17 and application training. So I would actually set  
18 up scenarios where the equipment wouldn't work and  
19 show them why it didn't work and do drop tests and  
20 blow off those side gates we were talking about  
21 before. So showing that they thought it was all  
22 safe and we dropped a two hundred and twenty pound  
23 headache ball, crane ball, blew it right off and  
24 broke the lanyards and said that's why you can't  
25 do what you were thinking was safe, that's why you

1     can't do it. So my training is forty hours  
2     competent person, qualified is typically eighty  
3     hours, and authorized person is typically two  
4     days.

5               **Q. And you said GM it's been on and off**  
6     **for thirty-five, forty years?**

7               A. I've worked for GM for thirty-five,  
8     forty years. Fall protection I worked for them  
9     since '88, and there was a big push up  
10    through '97 --

11              **Q. Okay.**

12              A. -- then it leveled off.

13              **Q. Okay. Dana, what years was that?**

14              A. Danis, D A N I S.

15              **Q. Oh, I'm sorry.**

16              A. That was in '96.

17              **Q. And Honda?**

18              A. Maybe 2001, 2002. That's still going  
19    on.

20              **Q. And Ford?**

21              A. Ford was '98. '98.

22              **Q. Just '98?**

23              A. Yeah. They just wanted a series of  
24    videos and review their manual -- their training  
25    manual.

1           **Q.    Okay.  Any other companies that**  
2   **you've done fall protection training of one kind**  
3   **or another?**

4           A.    We did fall protection training for  
5   Steel Dynamics, Inc. in Indiana in 2013  
6   maybe, '14.  2013, '14, in that window.  Just for  
7   their high levels.  Each plant was represented and  
8   we trained their highest level safety  
9   representative for forty hours competent person.

10          **Q.    Any others?**

11          A.    We did some training for Navy in fall  
12   protection as awareness training, maybe eight  
13   hours awareness training at Washington state, I  
14   think.

15          **Q.    What?  In Washington state for the**  
16   **Navy?**

17          A.    Yeah.  Just that one branch.  Puget  
18   Sound, I think, was the area.

19          **Q.    Anywhere else?**

20          A.    I think that's the -- oh.  U.S. --  
21   no, what was it?  Muscle Shoals, Alabama  
22   Aluminum -- I guess it's called Muscle Shoals  
23   Aluminum in Muscle Shoals, Alabama.  I trained  
24   maybe ninety of their safety and engineers to  
25   competent person level, and then we went on and

1 did another qualified person training for their  
2 engineers, maybe twenty of those.

3 **Q. In what years?**

4 A. I would say '99. '98, '99, somewhere  
5 in there.

6 **Q. Any others you remember?**

7 A. International Harvester, IH, where  
8 they make semis. We trained their entire  
9 facility, multiple trainings of competent persons.  
10 Did a training tower for them. Designed a  
11 training tower so they actually could practice  
12 with all the equipment.

13 **Q. When did you do that?**

14 A. '98 maybe. We did Georgia Pacific  
15 fall protection training to just one plant in, I  
16 think, Alabama. Maybe 2001.

17 **Q. Anywhere else?**

18 A. I'm going through all the different  
19 types of industries. Proctor and -- or Mead Paper  
20 we did awareness training in Chillicothe, Ohio to  
21 their upper management and safety department to  
22 get them to understand the OSHA and ANSI  
23 regulations probably '96, and then they took it  
24 from there. That's all I can think of.

25 **Q. That's what you remember now?**

1           A.    Yeah.  I could try to get more if you  
2   want me to keep looking.  Those come to my mind.

3                   (Thereupon, Defendant's Exhibit E,  
4   Michael Wright's professional experience, was  
5   marked for purposes of identification.)

6   BY MR. GOLDBERG:

7           Q.    Showing you what's been marked as  
8   Defendant's Exhibit E --

9           A.    Yes.

10          Q.    -- and I pulled this out of your  
11   report in this case which includes some of your  
12   professional experience.  It's pages fifty through  
13   sixty -- strike that -- it's page fifty and then  
14   pages fifty-six through sixty of your report which  
15   includes something at the beginning called  
16   professional experience, correct?

17          A.    Yes.

18          Q.    Okay.  And this includes some of the  
19   folks that you identified and it also shows some  
20   years, breaking it down to maritime safety -- and  
21   maritime safety, based on what you told me about  
22   the Navy, I take it that did include some fall  
23   protection training?

24          A.    Yes.

25          Q.    And would that -- are they subject to

1     **OSHA, too, or is it a different section actually?**

2             A.     Well, it's -- maritime is a different  
3     section.

4             Q.     Okay. But it's the same concept?

5             A.     Same concept.

6             Q.     Okay. Got it. And on that first  
7     page it shows anchorage points for fall arrest  
8     programs --

9             A.     Yes.

10            Q.     -- that you provided consulting for  
11     each of the companies listed there on page fifty?

12            A.     Yes.

13            Q.     And for the companies you listed that  
14     I recognize, Boeing, you mentioned Ford --

15            A.     Yes.

16            Q.     -- GM, Honda?

17            A.     Yes.

18            Q.     Navy?

19            A.     Yes.

20            Q.     P&G?

21            A.     Saturn.

22            Q.     But the ones that you mentioned,  
23     those would be in the years that you identified a  
24     minute ago?

25            A.     Yes.

1 Q. Okay.

2 A. Approximate years.

3 Q. All right. And if you go to page  
4 fifty-six at the bottom spilling over to the next  
5 through fifty-nine, that shows your involvement at  
6 steel mills --

7 A. Yes.

8 Q. -- with training as well as with the  
9 motor companies, Ford and GM?

10 A. Yes.

11 Q. And it gives, again, the years that  
12 you provided that training?

13 A. Yeah.

14 Q. So when you listed a whole  
15 different -- when you listed a group of different  
16 topics that you trained on, for example, with GM  
17 Defiance, GM Saginaw, it lists a whole bunch of  
18 stuff and over a period of years. Did you do  
19 different trainings in different years or did you  
20 do each of these things in each of those years?

21 A. It would be probably yes to both of  
22 those.

23 Q. Okay. Some in each year?

24 A. Yes.

25 Q. Okay.

1           A.     It's usually what drives the  
2     accident. The guy gets caught in the machine,  
3     okay, let's do lockout/tagout. Okay. The guy got  
4     caught in the machine, the machine guarding was  
5     missing, okay, let's do machine guarding. The guy  
6     falls off the roof, okay, let's do fall protection  
7     again. It usually drives that, the training.

8           **Q.     Did each of these contracts that had**  
9     **you doing training result from an accident that**  
10    **had already happened?**

11          A.     Sometimes. Sometimes it's a citation  
12    with no accident, and sometimes it's proactive.

13          **Q.     Which is the best, right?**

14          A.     Yes.

15          **Q.     All right. So --**

16          A.     Proctor & Gamble was always  
17    proactive. The rest of them was citation or  
18    something happened.

19          **Q.     Okay. And then, of course, your goal**  
20    **as a trainer is that once you train them, they**  
21    **know what they're doing?**

22          A.     Yes. I show them how to fish and  
23    then they fish thereafter.

24          **Q.     And if you're doing your job, then**  
25    **accidents don't happen?**

1 A. Correct.

2 Q. Are you perfect?

3 A. No.

4 Q. Okay. Have you had places where  
5 you've performed training where there have been  
6 accidents after you did the training?

7 A. Not that I know of.

8 Q. Okay. With the design work you've  
9 done, you said you would always be the first to  
10 know and you've never heard anything?

11 A. No.

12 Q. But with the training, you don't know  
13 whether --

14 A. It would still be the same story.

15 Q. Theoretically --

16 A. It would be --

17 Q. -- if they wanted to blame you as the  
18 trainer --

19 A. Right, you'd be the first to know.

20 Q. And you've -- no one has ever called  
21 you as a witness about training that you did give  
22 at a facility?

23 A. No. They've called me as a witness  
24 that the training was adequate or that the --

25 Q. Hold on. I get it.

1           A.     Okay.

2           **Q.     Did they ever call you as a witness**  
3     **about training that you had given?**

4           A.     No.

5           **Q.     Okay.  Do you have -- and I -- do you**  
6     **have copies of the videos that you have done as**  
7     **part of fall protection training for any of these**  
8     **companies?**

9           A.     No.  The video is usually by an  
10    outside vendor that I edit their videos and they  
11    gave me credit for being the behind-the-scenes  
12    editor, make sure it was in compliance with OSHA  
13    and ANSI, and then you would buy those.  As I sit  
14    here, I can't think of the name of the company.

15          **Q.     It doesn't matter --**

16          A.     Yeah.

17          **Q.     -- but the --**

18          A.     I don't produce videos.

19          **Q.     Oh, okay.**

20          A.     Okay.

21          **Q.     You just look at other people's --**

22          A.     I edit.  A lot of times I'll -- like,  
23    if there's a video --

24          **Q.     Now, hold on.  I don't care about a**  
25    **lot of times.**

1           A.     Okay.

2           Q.     You mentioned Ford that you did eight  
3 hours of video --

4           A.     Yes.

5           Q.     -- for them. You didn't produce any  
6 of the videos?

7           A.     Correct.

8           Q.     You did edit all of the videos?

9           A.     Most of the videos.

10          Q.     Okay. So that meant you took  
11 somebody else's work --

12          A.     No.

13          Q.     -- and then you said well, here's how  
14 we want to do -- you're like the --

15          A.     I wrote the story.

16          Q.     -- cinematographer or something?

17          A.     I wrote the story.

18          Q.     Oh, okay. And then they went out --

19          A.     And did it.

20          Q.     -- and made the video according to  
21 what you told them to do?

22          A.     Yeah. They got the models and made  
23 it happen.

24          Q.     Cool. And are you on the scene when  
25 they actually do the shooting or --

1 A. No.

2 Q. Okay. You see it after and then you  
3 tell them I like this, I don't like that --

4 A. Yes.

5 Q. -- do that over again, whatnot?

6 A. Yes.

7 Q. So ultimately the final product on  
8 the video that you shared with Ford, the video  
9 you've shared with Honda, P&G, GM has been  
10 something that you scripted and you approved?

11 A. For Ford, yes. For the rest of them  
12 some of it I've scripted that an outside vendor  
13 made and I got credit for it, or sometimes the  
14 outside vendor would just use somebody else's, my  
15 competition, and it was very close and I would use  
16 that video and as I train, I would say what's  
17 wrong with this video, what's wrong with that  
18 picture, what's wrong with that, and then I would  
19 use it that way.

20 Q. Perfect.

21 A. Yeah.

22 Q. For the videos that you did write and  
23 edit --

24 A. Ford.

25 Q. Just Ford?

1           A.    Yeah.

2           **Q.    Okay.**

3           A.    Yeah.   Procter & Gamble I did a  
4   little bit of -- they did their own video camera  
5   and stuff and they created it up in Wisconsin and  
6   then I edited it after I saw it.

7           **Q.    So you thought those were pretty good**  
8   **videos, whatever, the ones that you at least**  
9   **scripted and edited?**

10          A.    By the time we got done with it, they  
11   were very good.

12          **Q.    Okay.   And for P&G and Ford, those**  
13   **were when?**

14          A.    It would be that time frame.

15          **Q.    I think you said '98 for Ford?**

16          A.    Yeah, that's about right.   P&G was  
17   around 2000, 2001.

18          **Q.    You said '98 to 2000 for P&G.**

19          A.    Yeah.

20          **Q.    I don't know --**

21          A.    I mean, it's my best as I sit here  
22   today.

23          **Q.    Okay.   But you also said that you**  
24   **did -- where training is listed for these**  
25   **companies, you would have done it each year?**

1           A.    As required. I wouldn't do it each  
2   year. It's as required. Because a lot of times  
3   those competent persons that trained would move on  
4   and all of a sudden where I had ten competent  
5   persons in one plant, they're all gone so then  
6   they'd have new competent persons and I'd come in  
7   and retrain all those guys.

8           **Q.    Okay. Fair enough.**

9           A.    And then a lot of times those  
10   competent persons that I trained went to  
11   competition, then I got into that plant because of  
12   the competition.

13           **Q.    So how many times did you have to**  
14   **train competent persons at these companies? Was**  
15   **it almost every year?**

16           A.    No. Probably once every five years  
17   they would all be phased out. They would move on,  
18   retire, whatever.

19           **Q.    Okay. Do you remember with P&G how**  
20   **often you did training there in the two, three**  
21   **years?**

22           A.    That particular plant was up and  
23   running and then their president came -- a new  
24   president came out of Spain and dissolved  
25   basically the whole safety department. So it was

1     probably the best in the world and it went to  
2     zero.

3               **Q.     And with Ford --**

4               A.     I did that as a one-time deal with  
5     Ford.

6               **Q.     Okay.  And was it at a particular**  
7     **plant or was it a meeting of all the plants or**  
8     **what?**

9               A.     It was in Detroit, and it was hosted  
10    at the foundry in Detroit, the big foundry as you  
11    go up I-75 that's got the baseball painted -- the  
12    big tower.  What's that thing called?

13              **Q.     Did it smell really badly as you**  
14     **drove by?**

15              A.     Yeah.

16                     MR. BOISSONEAULT:  River Rouge.

17                     THE WITNESS:  Yeah.  It's the  
18    original Henry Ford plant, yes.  That's where it  
19    was held at.

20    BY MR. GOLDBERG:

21               **Q.     Okay.  And so was the idea that all**  
22     **the people that would be qualified and competent**  
23     **were going to be there for you to train?**

24               A.     Yes.  And with Honda it was training  
25    about every five years.

1 Q. Okay. But Ford was just one time?

2 A. One time.

3 Q. Do you remember the specific year you  
4 did it?

5 A. Not the specific.

6 Q. Okay. Because you list for Ford 1996  
7 to 2002.

8 A. During that time it was anchor points  
9 I think you're under.

10 Q. Safety and engineering services for  
11 steel manufacturing and processing facilities.

12 A. Yeah, engineering. There's a lot  
13 of --

14 Q. It says confined space safety audits,  
15 fall hazard risk assessment?

16 A. Yeah.

17 Q. Fall protection for roof, building,  
18 and machinery --

19 A. Yeah.

20 Q. -- fall protection training programs,  
21 and it goes on.

22 A. Yeah.

23 Q. But --

24 A. Some were training. Some were  
25 engineering. And most were driven by the plant,

1 not the corporation. So if a plant, somebody  
2 would fall off of a big crown press, then they  
3 want fall protection on all twenty presses. Or if  
4 someone would fall off of a crane, then they want  
5 crane protection.

6 **Q. Okay.**

7 A. I'm pretty sure I only did training  
8 once there. I wanted to do it more but they take  
9 it from there.

10 **Q. And who was your Wendy at Ford?**

11 A. It was another lady. When the --  
12 when that plant that we just talked about that has  
13 an odor, that powerhouse blew up and killed eight  
14 people, she was the corporate safety directive and  
15 then she got suspended with pay and I don't know  
16 who the replacement was. But after that there  
17 wasn't any fall protection that I was involved in.

18 **Q. But that was in what year?**

19 A. That's why I was using the reference  
20 of when the plant blew -- when the powerhouse blew  
21 up because that made national news.

22 **Q. Well, who was the person that you**  
23 **dealt with that got let go?**

24 A. I don't know her name.

25 **Q. Oh, okay.**

1           A.     She was --

2           **Q.     But she was the person who was let go**  
3     **after the powerhouse blew up at Rouge River?**

4           A.     Yeah. She was in charge of that.  
5     She retired with pay is what the rumor was. I  
6     don't know one way or the other. But it made  
7     news.

8           MR. GOLDBERG: Off the record.

9           (Thereupon, an off-the-record  
10   discussion was had.)

11   BY MR. GOLDBERG:

12           **Q.     Is your framework for training OSHA?**

13           A.     It's OSHA and ANSI --

14           **Q.     Okay.**

15           A.     -- and I show them the differences  
16   and I show them they have to take the highest  
17   road.

18           **Q.     Good enough. Is there anything wrong**  
19     **with, I'm going to call it an outline, with the**  
20     **materials headed fall protection on Exhibit A? Is**  
21     **there anything wrong with the outline topics that**  
22     **we marked as Exhibit A with respect to fall**  
23     **protection? Without telling me, well, it doesn't**  
24     **say how much detail there was or there wasn't, but**  
25     **the topics conveyed in there I want you to take a**

1     **look at and tell me whether the topics are at**  
2     **least addressed there?**

3             A.     Well, equipment selection, equipment  
4     use, equipment inspection, equipment storage is  
5     not there. Equipment limitations is not there.  
6     The fact of a guardrail height and the capacity is  
7     not there, forty-two inches; and the load, it's  
8     not there. There's nothing about aerial lifts,  
9     articulating lifts. Nothing about ladders. Yeah.  
10    And they go back and forth from six foot or four  
11    foot. It's four foot. Six foot is for  
12    construction.

13            Safety techniques. It doesn't say  
14    how to wear your equipment, the angles your  
15    equipment is good for, what a certified anchor  
16    point is.

17            I mean, five thousand pounds is the  
18    weight of an F-350 and most guys think that if I  
19    fall, I weigh three hundred pounds, that is -- the  
20    anchor point is good enough so I can connect to a  
21    water pipe, I can connect to a guardrail where I  
22    show them using watermelons and using M&M peanuts  
23    the dynamic loading. If you hover -- if you have  
24    a baby scale and you hover a one pound bag of  
25    M&M -- first of all, you just set it on there, it

1     would be one pound. If you hover it, it's about  
2     two pounds. If you take it up about ten inches  
3     and let it go, it's nineteen pounds. So that's  
4     nineteen times one pound. So that's the dynamic  
5     effect that an anchor point has to withstand, and  
6     they don't get it until I do that.

7                     And then they think well, if I fall  
8     off a ladder, I'll just grab on. So then we do an  
9     egg test and I have my hand in a black shirt and  
10    they can't see my muscles reflex and I say you  
11    catch it. You can't catch it. So, in other  
12    words, when you fall off a ladder, what you're  
13    grabbing on to, this rail, is now five, six feet  
14    up so when you grab on, your hand now becomes that  
15    five thousand pound anchor point and you can't  
16    hold on, you rip your arm off, you can't  
17    physically hold on, and they say, oh, yeah, you're  
18    right. So those are the kind of things that --  
19    demos -- you know, just field questions, macho, if  
20    I fall, I'm going to catch myself, well, you  
21    can't, that kind of stuff.

22                   **Q.     Emphasizing the importance of using**  
23    **the equipment?**

24                   A.     Yeah, just drilling it in so it's  
25    not -- like you're saying -- like I was saying,

1     it's not common sense. It's like, oh, yeah I  
2     can't catch, or if I fall, I can't grab on,  
3     because -- you know, you always hear the guys  
4     well, if I fall, I'm going to grab on. You can't.  
5     Your mind won't let you grab on.

6                     Then I show them the medical -- I've  
7     got an article that says medical response, you  
8     know, if it's a half a second, a blink of an eye  
9     is five-eighth of a second, the object that you're  
10    trying to grab on is four or five feet away, you  
11    can't do it. So now I'm grabbing on something  
12    with my body force on it.

13                    **Q.    Not going to work?**

14                    A.    Not going to work.

15                    **Q.    Right. So it's important that you**  
16    **emphasize --**

17                    A.    Practical --

18                    **Q.    -- the use of the equipment?**

19                    A.    And designing it out. With  
20    engineers, you've got to design it out, guys. If  
21    you can eliminate it or design it out, put  
22    guardrails up there, change the process, put  
23    platforms around, that's designing it out. You've  
24    got to make it basically at that level a qualified  
25    person, you've got to make it idiot proof just so

1 the guys can't make a mistake. Most accidents are  
2 Fridays -- are Mondays and Fridays since 1970.

3 **Q. Do you have a manual that you use for**  
4 **fall protection training of OSHA competent**  
5 **persons?**

6 A. The manual that I use is like a Honda  
7 manual or GM manual. I give that to them. I  
8 customize it because they've got their own rules  
9 and then I -- and they've got their own language  
10 typically and then I give that to them so I don't.

11 **Q. You've not written one yourself --**

12 A. Oh, I write them all myself but --

13 **Q. Do you have any?**

14 A. I'd have to look in the archives. I  
15 doubt it because I give it to them. Like Ford is  
16 confidential when you do the contract.

17 **Q. Well, here's the thing, I mean, I**  
18 **don't know if your manual is seven pages long --**

19 A. It's about that (indicating).

20 **Q. -- plus the video. On fall**  
21 **protection?**

22 A. Yes.

23 **Q. Just on fall protection?**

24 A. Yes.

25 **Q. I haven't seen it so I don't know**

1     **that. I appreciate you telling me that.**

2             A.     Yeah.

3             Q.     I don't know if it has anything more  
4     than this or if it just shows people trying to  
5     catch eggs and people trying to do this and  
6     discussion of dynamic forces. But you wouldn't  
7     expect your authorized workers to read a two inch  
8     manual?

9             A.     No, that's totally different.

10            Q.     Right.

11            A.     Right.

12            Q.     So the document to be read by the  
13   authorized worker, do you have documents you  
14   produce for them, too?

15            A.     I might have an old Honda awareness  
16   at-risk worker pocket manual that was designed for  
17   them to keep it in their pocket or their toolbox.

18            Q.     So something even shorter than the  
19   pages on Exhibit A?

20            A.     It's probably a seven page, three  
21   inch by six inch, five inch, open up and it says  
22   Honda, open it up, it probably gives you an  
23   overview and may have some cartoons on it.

24            Q.     Do you have that with you?

25            A.     Oh, obviously not. I don't even know

1 if I've got it.

2 Q. I mean, you brought with you, you  
3 know, practically an office of information --

4 A. Yeah, a little bit.

5 Q. -- but you don't have that?

6 A. I could probably get that from a  
7 Honda representative, but it would have to be what  
8 you call confidential --

9 Q. That's okay.

10 A. -- or under seal. I can give it to  
11 Kevin.

12 MR. GOLDBERG: Would that be  
13 something you'd produce without a -- I mean, just  
14 subject to the stipulated protective order you  
15 have, Kevin, or are you going to --

16 MR. BOISSONEAULT: I'm not sure  
17 whether it's relevant or anything at this point in  
18 time.

19 MR. GOLDBERG: Well, the relevance  
20 would be to compare it with other information  
21 that's been shared here. He's critical of the  
22 information here, at some level, so I would like  
23 to compare it with the information that he has  
24 produced himself. So that's all I'm thinking.

25 THE WITNESS: Yeah. It's like

1 pulling hen's teeth to get a corporation to let me  
2 give it to somebody else. They're always afraid  
3 they're going to be used and they've already  
4 paid -- like the amusement park industry, why  
5 should I let you show Disney this because I  
6 already paid you a hundred thousand dollars to  
7 develop this? So that's what they're afraid of.

8 BY MR. GOLDBERG:

9 Q. Okay. Well, if you have a  
10 confidentiality agreement with them --

11 A. I do.

12 Q. -- then I guess it could be a problem  
13 for you and I.

14 A. Yeah.

15 Q. You could ask or you could not ask.  
16 I'll leave that to you.

17 A. Yeah. That's the problem.

18 Q. Would you be uncomfortable asking?

19 A. No. I know the answer.

20 Q. I'd appreciate it if you would ask  
21 and then get back to Kevin who will let us know --

22 A. Okay.

23 Q. -- if you can either get it or not.

24 A. Okay.

25 MR. GOLDBERG: Is that fair?

1 MR. BOISSONEAULT: He can certainly  
2 ask.

3 MR. GOLDBERG: Okay. You're not  
4 going to tell him not to ask, that's what I mean?

5 MR. BOISSONEAULT: No.

6 MR. GOLDBERG: Okay. Thanks.

7 BY MR. GOLDBERG:

8 Q. When proper fall protection training  
9 is given, then you agree with the proposition that  
10 somebody shouldn't fall?

11 A. Well, it's --

12 MR. BOISSONEAULT: Objection. Form  
13 and foundation.

14 MR. GOLDBERG: Okay.

15 THE WITNESS: It's a program, and one  
16 of the elements is you've got to train the  
17 engineers not to keep designing in hazards, and  
18 then that's a qualified person level because most  
19 engineers are not trained to OSHA and ANSI safety  
20 requirements, almost all of them aren't right out  
21 of college, so that's what a safety engineer does.  
22 So I as a qualified person would train them this  
23 is a hazard, here's how you design it away. This  
24 is a hazard, here's how you eliminate it. Then  
25 you've got that program going.

1                   Then you've got a competent person  
2   program that deals with existing hazards.  
3   Existing hazards are, okay, you've got to  
4   basically play with the cards you're dealt. This  
5   is a hazardous area, the competent person has  
6   identified it and done a job safety analysis which  
7   they call a job breakdown analysis, and here's how  
8   you do every step and here's a certified anchor  
9   point. The engineering department has certified  
10   it. Here's the seal on it. This is the equipment  
11   you use. You use the JLG thirty-foot stainless  
12   steel lanyard. It's like a yo-yo, a safety belt  
13   yo-yo, but you can get them up to a hundred and  
14   fifty foot long, but on that particular case you  
15   use a twenty-foot yo-yo called an SRL,  
16   self-retracting lifeline, and then a full body  
17   harness and then you do your work activity. And  
18   that's what a competent person would do.

19                  Then he would verify that the  
20   authorized person is doing it properly. That's  
21   the competent person training. And also safety  
22   inspections, to do the job safety analysis before  
23   they do the work. That's why it's much easier to  
24   design it out because then you don't need the  
25   second phase of competent person dealing with the

1 hazard and how to control the hazard while you're  
2 working on it.

3 If I can get the engineer to see the  
4 hazard, design it out, then you never have to  
5 worry about it because you have guardrails, for  
6 example, in this case and there's no hazard  
7 because you're guardrail protected. But you're  
8 dealing with the cards you're played with so  
9 here's the competent person's role is to control  
10 the hazard. But you've got a lot of control to do  
11 and it's a lot easier moneywise to design it out  
12 in the first place.

13 BY MR. GOLDBERG:

14 Q. You're aware that Mr. Lucio was  
15 injured when he fell, right?

16 A. Yes.

17 Q. And if Mr. Lucio had a harness on  
18 with the lanyard while he was standing on that  
19 deck, that would have been impossible?

20 A. No, not with the scenario that was  
21 there present that day of the accident.

22 Q. Well, at some point. You say you  
23 believe he was at eight to ten feet away at some  
24 point based on an X, and you're estimating  
25 distances?

1           A.    Ten to twelve, yeah.

2           Q.    Ten to twelve feet. But there is  
3   some proximity that one could stand to the hole in  
4   the beam that if that lanyard was hooked in that,  
5   Mr. Lucio could have stood at someplace on the  
6   screen deck without being detached from that hole?

7           A.    I don't think so.

8           Q.    Okay. But your testimony is based on  
9   not having gone and seen it?

10          A.    My testimony is based on all the  
11   photographs, the OSHA report, and the geometry and  
12   my knowledge of fall protection equipment and my  
13   training and my actual experience using the  
14   equipment, I don't think so.

15          Q.    Okay. So if Mr. Lucio had hooked the  
16   lanyard to the hole that was there and then it's  
17   tied to his harness at someplace -- right?

18          A.    His back dorsal D ring.

19          Q.    -- that would give him, as you  
20   understand it, six feet from the point of  
21   attachment to the back of his dorsal D ring?

22          A.    Right, which is very limited.

23          Q.    To six feet?

24          A.    Well, the hook --

25          Q.    To six feet, right?

1           A.    Yes.

2           Q.    I mean, we don't need to qualify it.

3           A.    The hook is up in the air.

4           Q.    We have a number of feet.  It's six  
5 feet between the hooking place and the dorsal D  
6 ring on the back?

7                   MR. BOISSONEAULT:  Just note my  
8 objection to the last question.

9                   MR. GOLDBERG:  That's okay.

10                  MR. BOISSONEAULT:  Foundation.

11 BY MR. GOLDBERG:

12           Q.    That's the limitation we have is six  
13 feet?

14           A.    Yes.  What you described is unsafe  
15 completely, but yes.

16           Q.    Okay.

17           A.    It's inherently unsafe.

18           Q.    Okay.  Thank you.  Do you know the  
19 height from the hole in the beam down to the  
20 nearest surface on the screen deck?

21           A.    From the photographs, it looks around  
22 five feet.

23           Q.    Okay.  So if he was lying down on the  
24 screen deck --

25           A.    Not the subject --

1           Q.    -- on his stomach --

2           A.    Not the subject screen deck. From  
3 the roof to the screen deck, not out where he was  
4 at. Just straight down it was around five feet.

5           Q.    Well, where he was at is where he  
6 fell?

7           A.    Okay. So if you go five feet and  
8 then you go that projection --

9           Q.    No, I'm just asking the nearest point  
10 on the screen deck, if you know it from either a  
11 measurement or geometry, what that distance is?  
12 Is it five feet, three feet, six feet?

13          A.    It would be six to seven feet.

14          Q.    Okay. And as a professional  
15 engineer, structural engineer, you certainly know  
16 geometry and physics and you should be able to do  
17 a simple math calculation to figure that out,  
18 right?

19          A.    Yes.

20          Q.    Have you ever consulted either for  
21 the plaintiff or defendant where there's been a  
22 fall despite the presence of a guardrail that was  
23 of the right height and secured properly and  
24 according to OSHA and ANSI?

25          A.    In other words, everything was proper

1 and there was still a fall?

2 Q. Yes.

3 A. None come to my mind as I sit here  
4 today.

5 Q. Okay. But as an engineer, you're  
6 aware that a person can fall despite the presence  
7 of a forty-two inch guardrail, right?

8 A. They can willfully jump over it.

9 Q. That's one way to go over. Another  
10 would be to fall?

11 A. You can't fall without going over the  
12 guardrail. That's the idea of a guardrail.

13 Q. Right. But I guess that begs the  
14 question is a person capable of falling over a  
15 forty-two inch guardrail?

16 A. Only if they intend to --

17 Q. Okay.

18 A. -- or under the influence.

19 Q. An accident?

20 A. Like football games.

21 Q. Well, you said things have to be  
22 idiot proof?

23 A. Well, that was a different topic.  
24 That was design engineers.

25 Q. All right. But that includes putting

1     **in a guardrail?**

2             A.     Guardrails have standards that's been  
3     acceptable since 1960. So it's been proven  
4     through time that it's acceptable, and you  
5     basically are under the influence or you got  
6     knocked down and rolled between the guardrails.  
7     I've done one case that happened.

8             **Q.     Okay. So you did have a case where**  
9     **somebody fell underneath a guardrail?**

10            A.     Got knocked out and then rolled  
11     underneath the guardrail.

12            **Q.     Knocked out how?**

13            A.     With a drill.

14            **Q.     What happened? He fell or --**

15            A.     No. Well, he got knocked out with  
16     the drill.

17            **Q.     How did he get knocked out with the**  
18     **drill? Was he holding it?**

19            A.     Yeah. He was using the drill and  
20     then -- improperly and at the wrong settings, high  
21     torque instead of low torque and leaning into it  
22     and it got away from him and it went up and  
23     smashed him in the head --

24            **Q.     Okay.**

25            A.     -- knocked him out, fell down,

1 rolled, and then fell eighty-six feet.

2 Q. Did you consult on that case?

3 A. Yeah.

4 Q. For?

5 A. The drill manufacturer.

6 Q. And you said there was no defect in  
7 the drill --

8 A. No.

9 Q. -- or what did you say?

10 A. The drill was fine. No defect in the  
11 drill.

12 Q. That was your --

13 A. Right. She was using it --

14 Q. That was basically your testimony in  
15 the case?

16 A. She was using the drill improperly,  
17 and her employer said that, too.

18 Q. Okay. And there was not a lawsuit  
19 against the employer or the designer of the  
20 platform?

21 A. Same one; and no, it's Workmen's Comp  
22 then, it's just employer.

23 MR. GOLDBERG: Let's take a two  
24 minute break.

25 (Pause in proceedings.)

1 BY MR. GOLDBERG:

2 Q. I'm going to ask you just a couple  
3 more questions, Mr. Wright. On fall protection  
4 training, if it's done right, people don't fall if  
5 you have the right systems in place?

6 A. If you have the right competent  
7 person, that competent person was properly  
8 trained, you have the right equipment, you have  
9 the right qualified person engineering for anchor  
10 points and the whole program is in place, then  
11 people will not get injured.

12 Q. Right. And you for many of these  
13 companies have helped design entire programs --

14 A. Yes.

15 Q. -- to avoid precisely the sort of  
16 thing that happened to Mr. Lucio?

17 A. Yes. Falls.

18 Q. And if there is a fall, you say  
19 there's a failure on the part of the trainer?

20 A. It's the competent person, qualified  
21 person, that combination, that's usually where the  
22 error is at.

23 Q. And the trainer of the competent  
24 person and qualified person, right?

25 A. Right. Whoever trains the competent

1 person has to do it very thoroughly --

2 Q. Right.

3 A. -- and watch and make sure they're --  
4 that the competent person absorbs what they  
5 trained them.

6 Q. Right. And then --

7 A. And then go on and watch and then  
8 inspect and then review and then have refreshers,  
9 if necessary, on a frequent and regular basis.

10 Q. Right. And then the authorized  
11 workers, the laborers I'll call them, they're  
12 involved, too? They need to do -- assuming it was  
13 communicated well, if you're the guy who's trained  
14 the trainer and then watched the trainer train,  
15 there are some guys who will not follow training  
16 because they're a cowboy or they're going to think  
17 in spite of what Mr. Wright said, I don't believe  
18 that I'm like that watermelon, I'm going to be  
19 held up or I'm going to be able to catch myself,  
20 whatever, but there are people who will not listen  
21 to the training?

22 A. Then they get a pink slip.  
23 Enforcement.

24 Q. If they don't fall first?

25 A. Enforcement.

1                   **Q.     And if they don't fall first?**

2                   A.     They don't even get up there if they  
3     have that kind of attitude. The competent person  
4     has to enforce the entire program. He's the  
5     sergeant.

6                   **Q.     Okay. And if it happens that**  
7     **somebody has been doing stuff for fifteen to**  
8     **seventeen or eighteen years, whatever the number**  
9     **is that Mr. Deeds was involved, and he chose when**  
10    **to use his lanyard up on Tower 2 based on what he**  
11    **thought the weather conditions were, the extent of**  
12    **slipperiness, I know you're critical of him for**  
13    **that, right?**

14                  A.     Well, I'm more critical of the  
15    program -- the competent person, like Rock Miller,  
16    for example, he's the competent person, he comes  
17    and does the training, he has a duty to do  
18    inspections and to watch those guys. He has a  
19    duty to evaluate the hazard and make his  
20    organization we've got to have guardrails up here.

21                  **Q.     Did you understand that --**

22                         MR. BOISSONEAULT: Wait. Go ahead  
23    and finish, please.

24                         THE WITNESS: That's what a competent  
25    person does.

1 BY MR. GOLDBERG:

2 Q. Did you understand that Rock Miller  
3 did the training on fall protection in December of  
4 2012?

5 A. Yes. I understand he's been there  
6 for a long period of time. He's been at the site  
7 only once or twice a year. He should have been at  
8 the site monthly, and he should have already did a  
9 safety analysis -- job safety analysis, found all  
10 those hazards and abated those hazards and put in  
11 those anchor points, put in those guardrails, and  
12 then retrained his competent persons at that plant  
13 to understand fall protection and hands on. OSHA  
14 requires retraining if they don't get it the first  
15 time. Him as the competent person trainer, he  
16 goes into that facility and needs to retrain and  
17 abate and have safety meetings and refresher  
18 meetings, all that stuff is what he should do as a  
19 defendant Levy representative. That's his role.  
20 He's the competent person. That plant reported to  
21 him. Any safety issues goes through the competent  
22 person.

23 Q. You understand there were safety  
24 people at Fulton Mill as well?

25 A. I understand that.

1           **Q.    Okay.**

2           A.    And then he trained them.

3           **Q.    Understood.**

4           A.    So he didn't train them very well.

5           **Q.    Okay.  Because, as you said, if you**  
6 **train your people well, then bad things don't**  
7 **happen?**

8           A.    Right.

9                   MR. GOLDBERG:  Okay.  That's all I  
10 have for right now.  Thanks.

11                   THE WITNESS:  You're welcome.

12                   MR. TICKNOR:  Mr. Wright, good  
13 afternoon now.

14                   THE WITNESS:  Yes.

15                   MR. TICKNOR:  My name is Chuck  
16 Ticknor.  I represent North Star BlueScope Steel  
17 in this case.

18                   THE WITNESS:  Okay.

19                   MR. TICKNOR:  I only have -- I have a  
20 few questions for you.

21                               CROSS-EXAMINATION

22 BY MR. TICKNOR:

23           **Q.    I think you've introduced a new term**  
24 **from this case, to my recollection, and that's the**  
25 **term grizzly?**

1           A.    It's in the depositions.

2           Q.    Okay.  It may be in the first case's  
3 depositions.  In any event --

4           A.    The documents I read, it's in there.  
5 Sorry.

6           Q.    In any event, the grizzly is part of  
7 the screen deck; is that correct?

8           A.    Yeah.

9           Q.    Okay.

10          A.    It does the separation of all the  
11 particles.

12          Q.    And the screens themselves sit on the  
13 grizzly?

14          A.    Yes.

15          Q.    Okay.  Is the footing on the grizzly  
16 different than the footing on the screens in this  
17 particular situation for Mr. Lucio?

18          A.    From the documents I read, the screen  
19 is soft and it deflects to the grizzly.  So the  
20 footing is coming from the grizzly and that's the  
21 working surface.

22          Q.    When the screen -- so what I'm -- let  
23 me try to clarify.  Part of what was going on at  
24 the time of the accident and what Mr. Lucio had  
25 engaged in a couple of times before in his work

1     **was the changing of the screens, you understand**  
2     **that?**

3             A.     Changing of the grizzlies, yeah.

4             **Q.     But --**

5             A.     They were taking the whole thing  
6     down.

7             **Q.     Changing of the grizzlies or changing**  
8     **of the screens?**

9             A.     I think they're mixing words.  
10    They're calling the screen and the grizzly the  
11    same thing because they say the screen is two  
12    inches by two inches. That's the grizzly. So I  
13    think they're interchanging words.

14            **Q.     So with respect to the surface of**  
15    **either the grizzly -- with respect to the surface**  
16    **of the grizzly and the screens --**

17            A.     Yeah.

18            **Q.     -- they're two separate things,**  
19    **are --**

20            A.     I don't know if they are.

21            **Q.     Well, when the screens are removed,**  
22    **what's left?**

23            A.     A hole. A hole.

24            **Q.     A complete hole?**

25            A.     Yes. According to the photographs,

1     there's a hole. I think they're interchanging  
2     screen and grizzly the same.

3               **Q.     When the screens are being removed**  
4     **and before the new ones come up and are**  
5     **replaced --**

6               A.     Yes.

7               **Q.     -- what does the worker, like**  
8     **Mr. Lucio, stand on?**

9               A.     Very small geometry steel.

10              **Q.     What does that mean?**

11              A.     It means it's not a proper working  
12     surface. It's not a guarded working surface.  
13     It's what is called unguarded surfaces by OSHA's  
14     definition, and it's very thin. Very narrow so  
15     it's hard to balance, and it was done -- there's  
16     documents to say it's either frosty or icy at the  
17     time of the accident, and it's 7:00 in the morning  
18     in February so you can barely start seeing. And  
19     it was twenty degrees that day.

20              **Q.     Is the -- is the footing -- at that**  
21     **time when the screens are being removed but not**  
22     **brought back up, the new ones are not brought back**  
23     **up, is that a -- in your opinion, a dangerous**  
24     **situation, that footing scenario at that moment?**

25              A.     Yes. You're walking steel and you're

1     twenty-five feet elevated and anything above four  
2     feet is dangerous defined by OSHA as a recognized  
3     hazard -- nationally recognized hazard.

4             **Q.     I'm trying to understand.   Maybe even**  
5     **at this point in time I don't have a full**  
6     **understanding of the footing that Mr. Lucio was**  
7     **likely -- his footing at the moment or at about**  
8     **the time that he fell.   Was he on a -- was he on a**  
9     **thin piece of steel and the rest of what was**  
10    **inside the box area, was it all just an open hole?**

11            **A.     The photograph shows inside it's an**  
12    **open hole.   The photograph shows there's flat**  
13    **forms outside.   And the X shows he's on a very**  
14    **narrow piece of steel, from OSHA.**

15            **Q.     Can you describe for me, based on**  
16    **what your understanding is of the situation that**  
17    **morning when Mr. Lucio fell, what the -- not so**  
18    **much the processes part that led to it being a**  
19    **dangerous situation, but what were the actual**  
20    **physical circumstances that you would have**  
21    **considered dangerous with that time when he fell?**

22            **A.     The time up to the fall?**

23            **Q.     Yes.**

24            **A.     Climbing -- free climbing the side of**  
25    **the machine is dangerous.   Going over the top of**

1 the machine, going out to unloosen the bolts  
2 around the edges is dangerous. Working in icy,  
3 frosty conditions, twenty degrees, is dangerous  
4 without fall protection, being guardrails, safety  
5 net, or proper fall arrest equipment, including  
6 the proper anchor point. All those would be  
7 considered dangerous activities.

8 Q. I could not tell -- I -- you read the  
9 second deposition for Mr. Lucio --

10 A. Yes.

11 Q. -- and I was involved in that one.

12 A. Yes.

13 Q. And I got somewhat of a description  
14 of the lighting conditions at that time. Do you  
15 have a feel for what the lighting was based on  
16 what you've gathered from your review of this  
17 situation?

18 A. It was like dawn in February, 7:00  
19 o'clock in the morning. You can see but barely --  
20 it's dawn setting so here you're twenty-five feet  
21 up so the crane operator is twenty-five feet down  
22 and at an angle, frosty, twenty-five degrees --  
23 twenty degrees, sun is not up, just coming up,  
24 frost, ice on the surfaces. If there was proper  
25 competent person training, then that competent

1 person at the time of the accident would have  
2 said, hey, it's too dangerous, stay down.

3 Q. I know that -- from the description  
4 of what Mr. Lucio told me and some of the other  
5 documents in the case that the screens that were  
6 being removed --

7 A. Yes.

8 Q. -- were fairly heavy. Is that your  
9 recollection -- or your understanding?

10 A. It ranges. The engineer says six,  
11 seven thousand and the other documents say around  
12 three hundred. So it ranges.

13 Q. And Mr. Lucio's guess was at least  
14 maybe a hundred?

15 A. Yeah.

16 Q. Did the -- and I understand, see if  
17 this is consistent with your understanding, that  
18 when the screens are removed, it's not like the  
19 worker is actually trying to pick up the screens  
20 themselves, they're just guiding it because  
21 they're already attached to the crane?

22 A. That's correct. They're guiding it.  
23 It's attached to the crane, but there is some  
24 physical effort of pushing -- lightly pushing into  
25 position and getting out of the position when the

1 crane pulls it out.

2 Q. Does the -- does that -- that action,  
3 that is the action of the lifting of the screens  
4 and the moving the screens, does that add, in your  
5 opinion, to the -- any aspect of the danger of the  
6 work?

7 A. Yes.

8 Q. And in what way?

9 A. Well, the time of day, the crane  
10 operator has a visual only, no radio  
11 communication, and the crane operator is pulling  
12 it out. And this has been done quite frequently  
13 since '97, this is why it should have been abated  
14 by the competent person, Rock Miller, and other  
15 competent persons from Levy should have abated  
16 that and identified it and put in the proper  
17 anchor points. All those things should have been  
18 done. But when you're pulling out something and  
19 you're not properly tied off and you don't have a  
20 guardrail behind you, you're trying to get out of  
21 the way, but, you know, you're a rookie, even if  
22 you're senior, the crane operator is doing his  
23 best, can't see very well, wind conditions we  
24 don't know, we do know the temperature conditions,  
25 so all those things add into a potential danger,

1 no tag line, no rope on the swinging object to  
2 control it from wind or sudden movements so you  
3 could easily be knocked off. It's very  
4 foreseeable for that.

5 **Q. Do you believe that your lack of**  
6 **having actually been to the site inhibits or**  
7 **lessens your opinions in any way in this case?**

8 A. No.

9 **Q. Not at all?**

10 A. No. Photographs, documents. Most of  
11 the time I don't go to the cases -- go to the site  
12 until well after all the issues have been changed,  
13 modified, guardrails put on, all the hazards have  
14 been controlled or eliminated. But the  
15 photographs were great. The investigation  
16 reports, VSSR, the OSHA, it all shows the  
17 different angles. It shows the blow-out hole, it  
18 shows the location of the blow-out hole, gives me  
19 a perspective of the height, how far out it was.  
20 So that gives me everything.

21 **Q. You've reviewed the actual complaint**  
22 **in this case?**

23 A. Yes.

24 **Q. Do you understand that the -- do you**  
25 **have a general understanding that the claims that**

1     **are being made against -- by Mr. Lucio against**  
2     **North Star are negligence claims?**

3             A.     It's negligence -- gross negligence  
4     or reckless negligence, yeah, somewhere along that  
5     line.

6             Q.     And is it your understanding that  
7     those claims are -- at least as their source are  
8     because North Star BlueScope Steel owns the real  
9     estate on which the Fulton Mill slag plant sits?

10            A.     Well, they own the real estate. They  
11     also have enforcement people, patrol they call  
12     them, enforcement patrol. They do selective  
13     enforcement, as you saw in the plaintiff's second  
14     volume where they say smoking issues. They do  
15     safety training, awareness training, violation  
16     training, but it's selective. It's not  
17     consistent. They said that the contractor has to  
18     be in compliance with OSHA, but they do go past it  
19     but they don't consistently enforce all issues.

20            Also, there was enforcement issues, I  
21     think it was by -- in the deposition of Gary, the  
22     safety representative of Fulton, said that --  
23     maybe it was him, maybe it was somebody else, that  
24     said that they -- a couple of the workers were  
25     expelled for two days because they were not in

1 compliance with North Star safety requirements.  
2 So there's omissions by not being consistent with  
3 inspections, not being consistent with training,  
4 not being consistent with enforcement that I glean  
5 from the documents.

6 **Q. Going back, but at its core, isn't it**  
7 **your understanding that the basis of that**  
8 **responsibility, to the extent that it exists, is**  
9 **because North Star BlueScope Steel is the owner of**  
10 **the real estate?**

11 MR. BOISSONEAULT: Objection.  
12 Foundation.

13 THE WITNESS: It's my understanding,  
14 it's within their guarded, fenced area, yes.

15 BY MR. TICKNOR:

16 **Q. Have you seen any evidence in this**  
17 **case that tells you that North Star BlueScope**  
18 **Steel actually took control of the Fulton Mill**  
19 **slag plant site?**

20 A. Well, if you have authority to stop  
21 work and you actively participate in stopping  
22 work, enforcing smoking, for example, and you're  
23 actively participating and you have authority to  
24 do that, then that is, in OSHA's mind, taking  
25 control.

1           Q.    Okay.  Other than the -- I saw some  
2   testimony here, I think it was Mr. Lucio, but  
3   other than the smoking, are you aware of any other  
4   enforcement that North Star BlueScope Steel did  
5   with respect to anything at the slag -- at -- let  
6   me finish just briefly -- at the slag mill site?

7           A.    From the depositions that I read,  
8   there was one place where they said we had to --  
9   Fulton had to suspend two of their workers for a  
10  period of time because of a violation of North  
11  Star safety requirements.

12          Q.    Do you know if that was at the slag  
13  mill site or was that -- strike that.

14                Do you understand from the record,  
15  the records of what you've reviewed, that Fulton  
16  Mill provided workers in the actual steel mill and  
17  also at the slag mill site?

18          A.    Yes.  The workers would go in and out  
19  and North Star trained them in safety policies,  
20  requirements, and North Star enforced them whether  
21  they're at the mill or at the slag mill.  They  
22  were watching them and enforcing them randomly.

23          Q.    That's the part that I want to ask  
24  you about.  What evidence are you aware of that  
25  North Star enforced rules of any sort at the slag

1     **plant site?**

2                   A.     The only thing I have is the  
3     documents. The documents say that people were  
4     suspended for a couple days from -- Fulton  
5     employees were suspended a couple days for not  
6     following North Star's safety rules and they were  
7     enforced for smoking. They stopped them smoking.  
8     They actually did additional training for the  
9     smoking. Those are the only two places where I  
10    see they had authority, they took authority, and  
11    they enforced it. That's the only two places.

12                  **Q.     But you don't know where that conduct**  
13    **actually occurred?**

14                  A.     I do not. The record that I have  
15    doesn't make that clear.

16                  **Q.     Okay. Have you ever spoken with**  
17    **Mr. Lucio?**

18                  A.     No.

19                  **Q.     Your written report, with respect to**  
20    **North Star BlueScope, speaks to two different**  
21    **types of responsibilities generally. One is a**  
22    **contract safety responsibility --**

23                  A.     Yes.

24                  **Q.     -- and the other one -- and that's**  
25    **your language?**

1           A.     Yes.

2           Q.     And then the other one is an ordinary  
3     reasonable care safety responsibility; is that  
4     correct?

5           A.     Yes.

6           Q.     With respect to anything that North  
7     Star BlueScope did or didn't do, in your opinion,  
8     is there any part of that conduct or lack of  
9     conduct that applies to one of those types of  
10    responsibility but not the other? I'm trying to  
11    understand what the differences may be.

12          A.     Well, industry -- when you have a  
13    subcontractor working, whether it's a plant or  
14    construction site, the plant would be the owner  
15    and their operation and they would hire a  
16    contractor to do some functions. You have -- you  
17    have what is in the industry standards and  
18    practices in construction or general industry  
19    where the general or the owner has authority to  
20    have control, have -- enforce safety policies, set  
21    safety policies.

22                 And then at OSHA it's under the  
23    multiemployer act. As a controlling entity, you  
24    have a responsibility to maintain and ensure a  
25    safe work site, whether it's a construction site

1 or a plant industry site, and you have authority  
2 to take action. I gave you examples how they did  
3 take action, and the contract as well as OSHA  
4 industry standards would also agree that they have  
5 authority to take action. They do -- they did.  
6 And they have authority to stop, correct, retrain,  
7 and they did both in OSHA and industry standards  
8 and practices and ANSI 810.33, for example.

9 **Q. Those types of standards that you're**  
10 **talking about, are those what you're referring to**  
11 **as the ordinary reasonable care safety**  
12 **responsibilities?**

13 **A. Yes. Then OSHA has a directive to**  
14 **help the compliance officers when they write the**  
15 **citations. In actual practice -- if this**  
16 **controlling entity in actual practice is**  
17 **controlling, is actively participating in what's**  
18 **going on, whether it's completely or partially**  
19 **selective and have authority to stop it, correct**  
20 **it, then OSHA calls that a controlling entity.**

21 **Q. OSHA did not cite North Star**  
22 **BlueScope in this case, correct?**

23 **A. Correct.**

24 **Q. Are you critical of OSHA in that**  
25 **regard?**

1           A.    I'm not critical. It's very common  
2   that OSHA doesn't have the documents that I have.  
3   They don't see the documents that I have. They  
4   can only -- basically they have six months to get  
5   the report done. They interview the people at the  
6   site. They really don't have much authority to  
7   dig deeper than that. And if they're told or  
8   misled or don't ask the right questions, I've seen  
9   it where at least fifty percent of the time, if  
10   not more than that, they don't site the employer.

11           **Q.    From what you've seen so far in this**  
12   **case, what you reviewed, is it your opinion that**  
13   **OSHA should have cited North Star BlueScope Steel?**

14           A.    If OSHA had the information I have  
15   today, they probably would have.

16                   MR. GOLDBERG:  Objection.

17   BY MR. TICKNOR:

18           **Q.    Does -- so let's start with the**  
19   **things that -- not the omissions but the specific**  
20   **things that you believe that North Star BlueScope**  
21   **affirmatively did wrong.**

22           A.    Did wrong?

23           **Q.    Affirmatively did wrong?**

24           A.    Okay.

25           **Q.    Actions that they affirmatively took.**

1     **What of those actions would be contract safety**  
2     **responsibility violations and what would be**  
3     **ordinary reasonable care safety responsibility**  
4     **violations?**

5             A.     They're similar. Where they started  
6     doing enforcement and inspections with the smoking  
7     example. OSHA requires nobody work at heights  
8     above six feet. They saw people working at  
9     heights.

10            Q.     Pardon me for interrupting you. Have  
11     you identified two things now?

12            A.     Well --

13            Q.     The starting to enforce but then not  
14     enforcing?

15            A.     Correct.

16            Q.     Now, is that a contract safety  
17     responsibility violation and ordinary reasonable  
18     care safety responsibility violation? Is it both?

19            A.     It's both. With the contract, your  
20     vice president of operations said that we expect  
21     Fulton to be in OSHA compliance and we expect them  
22     to have a safe site, and that's contract. Then in  
23     their actual -- in practice, North Star is a  
24     controlling entity so OSHA expects North Star to  
25     maintain a safe site, which is a very high duty.

1     So then they -- North Star needs to frequently do  
2     regular inspections, make sure it's being done.  
3     They are contracted to them so they -- just like  
4     on the construction site or general industry site,  
5     they're an in-house contractor so they demand them  
6     to be safe and then they have to verify they're  
7     safe. And they have the authority to verify  
8     they're safe and they have the authority to stop  
9     work until they become safe by contract and by  
10    OSHA.

11               Q.     So on that -- on that --

12               A.     Overview.

13               Q.     -- overview, you're saying North Star  
14     has violated its -- has not fulfilled its  
15     responsibility from a contract safety  
16     responsibility perspective and from an ordinary  
17     reasonable care safety perspective?

18               A.     Your vice -- the vice president of  
19     North Star said we expect them through our  
20     contract to have a safe site. We expect them to  
21     have a safe site. We don't inspect them but we  
22     inspect -- we expect them to do it.

23               Q.     Right. I'm just asking is that  
24     failure you're referring to, in your opinion, is  
25     that both a contract failure and an ordinary care

1     **failure?**

2             A.     Yes.

3             Q.     Okay. That's what I'm trying to get  
4     at ultimately. I'm trying to find is there  
5     anything --

6             A.     It's kind of both.

7             Q.     -- is there anything that North Star  
8     BlueScope did affirmatively that is not, in your  
9     opinion, both a contract safety responsibility  
10    violation and an ordinary reasonable care safety  
11    violation, or are they -- or does everything that  
12    they did or didn't do fall under both, in your  
13    opinion?

14            A.     From the contract, they had to be in  
15    compliance with OSHA. Fulton had to be in  
16    compliance with OSHA. Then from OSHA, since they  
17    were a contractor to North Star, North Star had to  
18    maintain a safe site by OSHA. So, therefore,  
19    they're both.

20            Q.     So is there anything that North Star  
21    BlueScope --

22            A.     Did do.

23            Q.     -- did or didn't do that is not both,  
24    in your opinion?

25            A.     No. I think they're -- I'm not a

1 lawyer, but I think from what I can understand,  
2 no.

3 Q. I'm just asking for your opinions.

4 A. Yeah.

5 Q. You said earlier that -- I think you  
6 said as a matter of statistics that most  
7 accidents --

8 A. Oh.

9 Q. -- are Mondays and Fridays?

10 A. Yes.

11 Q. Is that workplace accidents or is  
12 that just accidents in the country or what are you  
13 referring to? What statistic are you referring  
14 to?

15 A. OSHA.

16 Q. Workplace accident?

17 A. From 1972 on.

18 Q. And when you say most --

19 A. Well, there's a few Tuesday,  
20 Wednesday, Thursday.

21 Q. I mean -- sure. Is there an actual  
22 percentage that is reported generally? I mean --  
23 I'm not looking for a specific. Do you recall?

24 A. It's not -- Bureau of Labor  
25 Statistics shows the trend and they don't keep it

1 clean enough to get a nice tight percentage, but  
2 it -- I explained to my kids who are in  
3 construction, it's when you're thinking about what  
4 you're doing on the weekend or what you did over  
5 the weekend, Friday, Monday is when it happens.  
6 And then you have new hirees that may get hurt or  
7 may cause the accident. That's throughout the  
8 week.

9 **Q. Any failures on the part of Mr. Lucio**  
10 **here that you hold him accountable for?**

11 **A. No.**

12 **Q. None?**

13 **A. No.**

14 (Thereupon, an off-the-record  
15 discussion was had.)

16 BY MR. TICKNOR:

17 **Q. In your conclusion section with**  
18 **respect to North Star BlueScope, there's just --**  
19 **there's some terminology where you say North Star,**  
20 **by their conduct, did permit the subject unsafe**  
21 **workplace conditions and/or dangerous workplace**  
22 **conditions. What's the distinction between those**  
23 **two types?**

24 **A. OSHA would say it's unsafe. ANSI**  
25 **would say it's dangerous.**

1           **Q.     Okay.**

2           **A.     It's basically the same thing.**

3           **Q.     And then you use the language invited**  
4 **business guests.**

5           **A.     Well, they're on your property and**  
6 **the plaintiff is an employee of the contractor,**  
7 **and I see that as an employee but I also see he's**  
8 **an invited guest; but I don't know if that is**  
9 **legally the right way.**

10           **MR. TICKNOR:   I don't have any other**  
11 **questions.**

12           **MR. GOLDBERG:   Give me just a second.**

13           **FURTHER CROSS-EXAMINATION**

14           **BY MR. GOLDBERG:**

15           **Q.     Did you have any correspondence with**  
16 **counsel about the writing of your report, what you**  
17 **were writing, the opinions you were giving?**

18           **A.     Yes.**

19           **Q.     Are there e-mails back and forth that**  
20 **talk about different drafts of the report?**

21           **A.     There's e-mails where I sent him the**  
22 **draft. No talking about the draft.**

23           **Q.     Okay. And were there any**  
24 **recommendations given back to you about things to**  
25 **cover differently?**

1           A.     No.

2           **Q.     Okay.  So the draft that you sent**  
3     **was, other than form or typos, turned into your**  
4     **report?**

5           A.     There may have been -- I think the  
6     answer is a hundred percent yes, but there may  
7     have been please consider this action or please  
8     consider -- all I remember is please consider  
9     something.

10           MR. GOLDBERG:  All right.  If we  
11     could get a copy of that invoice, I didn't look at  
12     it, but why don't we --

13           MR. BOISSONEAULT:  You want to mark  
14     it?

15           MR. GOLDBERG:  Is that all right to  
16     mark and then you can keep the original one after  
17     we get a copy?

18           (Thereupon, Defendant's Exhibit F,  
19     invoice, was marked for purposes of  
20     identification.)

21     BY MR. GOLDBERG:

22           **Q.     Exhibit F is a true and correct copy**  
23     **of your statement for services rendered through --**

24           A.     Up at the top.

25           **Q.     -- February of -- well --**

1           A.    It should say at the top.

2           Q.    Well, it says five percent finance  
3 charge added if paid after March 10th, so it was  
4 probably through February 8th of 2014?

5           A.    Right here. February 9.

6           Q.    Okay.

7           A.    That's a billing period.

8           Q.    Okay. Did you do work before January  
9 20th or is this the whole of the work that you  
10 performed?

11          A.    It looks like I started work on  
12 January 25th.

13          Q.    All right. Perfect. Okay. So this  
14 is everything that you did --

15          A.    Yes.

16          Q.    -- up until --

17          A.    Today.

18          Q.    -- up until today other than --

19          A.    As far as I sit here today.

20               MR. GOLDBERG: Very good. Thank you  
21 so much.

22               THE WITNESS: You're welcome.

23               MR. GOLDBERG: You know about your  
24 right to review the transcript.

25               MR. BOISSONEAULT: We'll reserve.

1                               (Thereupon, the deposition was  
2   concluded at 12:57 p.m.)

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1                   I, MICHAEL C. WRIGHT, do hereby certify  
2    that the foregoing is a true and accurate  
3    transcription of my testimony.

4

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6                                   - - - - -

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8                   Dated - - - - -

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1       STATE OF OHIO                    )

2       COUNTY OF MONTGOMERY )   SS: CERTIFICATE

3                               I, Kathy S. Wysong, a Notary

4       Public within and for the State of Ohio, duly

5       commissioned and qualified,

6                               DO HEREBY CERTIFY that the

7       above-named MICHAEL C. WRIGHT, was by me first

8       duly sworn to testify the truth, the whole truth

9       and nothing but the truth.

10                            Said testimony was reduced to

11       writing by me stenographically in the presence

12       of the witness and thereafter reduced to

13       typewriting.

14                            I FURTHER CERTIFY that I am not a

15       relative or Attorney of either party, in any

16       manner interested in the event of this action,

17       nor am I, or the court reporting firm with which

18       I am affiliated, under a contract as defined in

19       Civil Rule 28(D).

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1                   IN WITNESS WHEREOF, I have hereunto set my  
2   hand and seal of office at Dayton, Ohio, on this  
3   18th day of April, 2016.

4

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*Kathy S. Wyson*  
KATHY S. WYSONG, RPR  
NOTARY PUBLIC, STATE OF OHIO  
My commission expires 12-1-2018



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## FALL PROTECTION

### I. OSHA requirements.

#### A. Duty to have fall protection.

##### 1. Unprotected sides or edges.

- a) Each employee on a walking/working surface with an unprotected side or edge which is 6 feet or more above a lower level shall be protected from falling by the use of a guardrail system or Personal Fall Arrest System.

##### 2. Hoist areas.

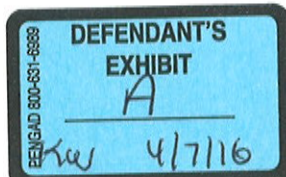
- a) Each employee in a hoist area shall be protected from falling 6 feet or more to lower levels by guardrail systems or Personal Fall Arrest System. If a portion of the guardrail is removed and the employee has to lean out over the opening, that employee MUST wear and use Personal Fall Arrest System.

##### 3. Dangerous Equipment.

- a) Each employee working less than 6 feet above dangerous equipment shall be protected from falling into or onto the dangerous equipment by guardrail systems or by equipment guards.
- b) Each employee working 6 feet or more above dangerous equipment shall be protected from fall hazards by guardrail systems or Personal Fall Arrest System.
- c) Each employee reaching more than 10 inches below the level of the walking/working surface on which they are working, shall be protected from falling by a guardrail system or Personal Fall Arrest System.

#### B. Protection from falling objects.

- a) When an employee is exposed to falling objects, the employer shall have each employee wear a hard hat and shall implement one of the following measures.
  - (1) Erect toeboards, screens or guardrail systems to prevent objects from falling from higher levels; or,
  - (2) Erect a canopy structure and keep potential fall objects far enough from the edge of the higher level so that those objects would not go over the edge if they were accidentally displaced; or,
  - (3) Barricade the area to which objects could fall, prohibit employees from entering the barricaded area, and keep objects that may fall far enough away from the edge of a higher level so that those objects would not go over the edge



Levy-000035

## II. Protection against hazards.

### A. Guardrails.

1. Barrier between employee and an open upper level.
2. 42 inches high.
3. Mid rail at 21 inches.
4. Must be able to withstand side impact of 200 pounds.
5. Can be removable - lift up only - to perform work on equipment or hoist materials to the platform.
6. Must be made of materials that won't snag clothes or puncture skin.
7. Must be solid, no steel or plastic bands.

### B. Personal Fall Arrest System (Full body harness with attached lanyard)

1. Must be attached to a fixed anchor point by a lanyard, lifeline or deceleration device that can hold your weight.
2. Attach in the center of your back near your shoulders or over your head, they distribute the fall arrest forces around your mid-body.
3. Belts are prohibited.
4. Designed to work after a fall of six feet and come into action before you contact any lower level.
5. Must bring a falling person to a complete stop after falling no more than 3 1/2 feet.
6. The only purpose of a Personal Fall Arrest System is to protect you. DO NOT use it to hoist anything.
7. Use only ANSI approved Personal Fall Arrest System.
8. Equipment manufacture.
  - a) Snaphook.
    - (1) Use only self-locking and self-closing snaphooks.
  - b) Anchor.
    - (1) Must be able to support 5,000 pounds per employee attached to it.
    - (2) Never anchor to a guardrail, hoist or anything used to support or suspend a platform.

## III. Safety techniques.

- A. Wear sturdy shoes with non-skid soles. Be sure that the shoes have short laces or buckles or straps.
- B. Avoid wearing loose clothing.
- C. Walk slowly and watch where you are going - don't run.
- D. Clean up all spills promptly.
- E. Take special care on wet or icy surfaces.
- F. Carry only the tools and material you need to upper levels.
- G. Stay away from edges, even if guarded, unless you are performing a specific task.
- H. Don't enter a controlled access zone without authorization.


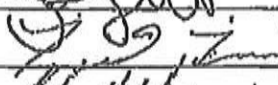
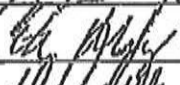
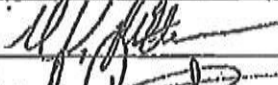
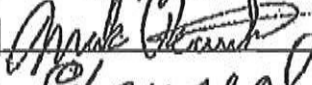
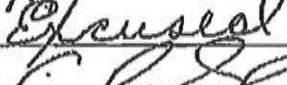
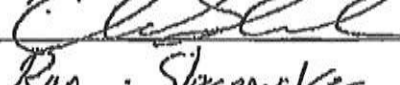



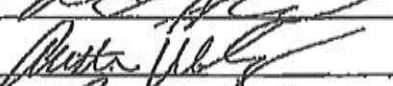
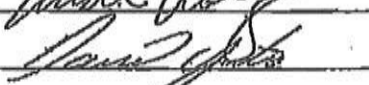

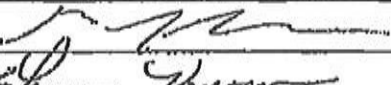
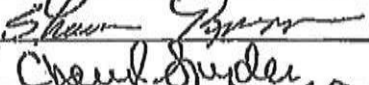
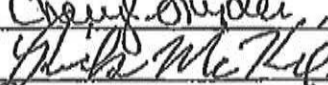
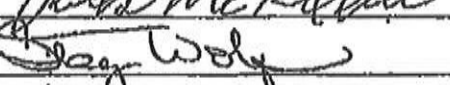
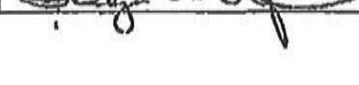
Fall Protection

**FMS Monthly Safety Meeting**  
**18-Dec-12**

Print Name	Sign Name
Adams Marvin	<i>Marvin Adams</i>
Alcenius Bill	<i>Bill Alcenius</i>
Alig Robert	<i>Robert Alig</i>
Beaverson Andrew	<i>Andrew Beaverson</i>
Beers Sam	<i>Sam Beers</i>
Boyd Mike	<i>Mike Boyd</i>
Bryant Jacob	<i>Jacob Bryant</i>
Deeds, Justin	<i>Justin Deeds</i>
Deeds Tim	<i>Tim Deeds</i>
Deeds Tyler	<i>Tyler Deeds</i>
Deeds Walter	<i>Walter Deeds</i>
Frisinger Gary	<i>Gary Frisinger</i>
Gomoll, Jake	<i>Jake Gomoll</i>
Griffin Shawn	<i>Shawn Griffin</i>
Heath Mike	<i>Mike Heath</i>
Hobson Russell	<i>Russell Hobson</i>
Hodges Daryl	<i>Daryl Hodges</i>
Kunkle Ruben	<i>Ruben Kunkle</i>
Kunkle Gahlon	<i>Gahlon Kunkle</i>
Lehniger John	<i>John Lehniger</i>

Levy-000037

**FMS Monthly Safety Meeting  
18-Dec-12**

Print Name	Sign Name
Lytle Larry	
Lucio Ted	
Manley, Ethan	
Patterson Mike	
Rearick Mark	
Rodriguez Rich	
Shoemaker Chris	
Shoemaker Ron	
Smith Brian	
Smith Greg A	
Stein Nell	
Walz Austin	
Yantis Dave	
Lambert Greg	
Knapp, Shawn	
Snyder Cheryl	
McKibben Rick	
Wolfgram, Stacy	

**FMS MONTHLY SAFETY MEETING**  
**December 18, 2012**

[illegible]

Quiz

Name TED WOOD

Date 12/18/12

1. A guardrail section on a platform can be removed to hoist objects to that platform.  
True or False
2. The guardrail must be replaced as soon as the hoist is done.  
True or False
3. Wear sturdy shoes with slidding soles.  
True or False
4. Don't enter a controlled access zone without authorization.  
True or False
5. Install guardrails, screens or toeboards at least 1/2 inches high.  
True or False
6. Anchor to a guardrail, hoist or anything used to support or suspend a platform.  
True or False
7. Use only ANSI approved Personal Fall Arrest System.  
True or False
8. Attach a Personal Fall Arrest System in the center of your back near your shoulders or over your head.  
True or False
9. Guardrails barrier should be 42 inches high and mid rails should be at 21 inches.  
True or False

**EDW. C. LEVY CO.**

**MINI MILL DIVISION**

**UNIFORM RULES AND REGULATIONS**

**January 2008**

**1. ACCIDENTS**

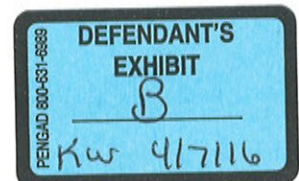
- A. Major chargeable accident after full investigation • Subject to discharge
- B. Minor chargeable accidents
  - 1<sup>st</sup> Offense- Written Reprimand
  - 2<sup>nd</sup> Offense- Final Written
  - 3<sup>rd</sup> Offense- Subject to Discharge
- C. Failure to report all accidents promptly and personal injury (to self or others) or major accidents immediately
  - 1<sup>st</sup> Offense- Final Written
  - 2<sup>nd</sup> Offense- Subject to Discharge
- D. Failure to report unsafe actions/conditions promptly to management
  - 1<sup>st</sup> Offense- Written Reprimand
  - 2<sup>nd</sup> Offense- Final Written
  - 3<sup>rd</sup> Offense- Subject to Discharge

**2. EQUIPMENT**

- A. Failure to keep equipment in neat and proper running order (fuel, grease, proper oil levels, etc.)
  - 1<sup>st</sup> Offense- Written reprimand
  - 2<sup>nd</sup> Offense- Final Written
  - 3<sup>rd</sup> Offense- Subject to Discharge
- B. Operating equipment in unsafe and/or negligent manner • Subject to Discharge
- C. Unauthorized use of Company premises or Company owned motor vehicles or equipment • Subject to Discharge
- D. Unauthorized carrying of passengers • Subject to Discharge

**3. GENERAL RULES**

- A. Dishonesty, deliberate falsification of reports or timesheets, punching or tampering with own or another employee's time card • Discharge
- B. Deliberate abuse or destruction of company equipment, tools, or property; or the property of any employee • Subject to Discharge



- |   |  |
|---|--|
| C. Assaulting, striking, or threatening another individual, initiating a fight, or possession of a weapon while on duty or on company and/or customer property                      | • Subject to Discharge   |
| D. Wasting time, horse play, or interfering with production or others while on duty   | • Subject to Discharge   |
| E. Employees off work as a result of disciplinary action shall refrain from entering company and/or customer property without a scheduled appointment with a company representative | • Subject to Discharge   |
| F. Flagrant disobeying of orders and/or Insubordination (defined as less than refusing work assignment)   | • 1 <sup>st</sup> Offense- Final Written<br>• 2 <sup>nd</sup> Offense- Immediate Discharge       |
| G. Conviction for driving recklessly while on duty.   | • 1 <sup>st</sup> Offense- Final Written<br>• 2 <sup>nd</sup> Offense- Discharge.                |
| H. Refusal to perform assigned work   | • Voluntary Quit.  |
| I. Sleeping while on duty   | • 1 <sup>st</sup> Offense- Final Written<br>• 2 <sup>nd</sup> Offense- Immediate Discharge.<br>• |
| J. Any type of sexual harassment (i.e. pictures, language, touching). (Refer to Company Policy on Sexual Harassment)  | • Subject to Discharge   |

#### 4. WORK PERFORMANCE

- |  |   |
|--|---|
| A. Failure to follow posted Company Safety Rules                   | • 1 <sup>st</sup> Offense- Final Written<br>• 2 <sup>nd</sup> Offense- Subject to Discharge   |
| B. Quality of work does not meet Company Standards                 | • 1 <sup>st</sup> Offense- Written Reprimand<br>• 2 <sup>nd</sup> Offense- Final Written<br>• 3 <sup>rd</sup> Offense- Subject to Discharge |
| C. Time required for specific jobs does not meet Company Standards | • 1 <sup>st</sup> Offense- Written Reprimand<br>• 2 <sup>nd</sup> Offense- Final Written<br>• 3 <sup>rd</sup> Offense- Subject to Discharge |

#### DRUG/ALCOHOL POLICY

See attached policy

#### ATTENDANCE POLICY

See attached policy

## **CARDINAL RULES**

**Failure to follow these rules will lead to discipline up to and including discharge.**

1. Lockout, tag-out, and tryout, and the release of stored energy must be performed before beginning any maintenance or servicing activity on equipment. This includes mobile equipment.
2. When working on or near hydraulic and mechanical equipment, the equipment and implements must be properly brought to rest. Examples are, but are not limited to: on the ground, set on appropriate jack stands, set on adequate blocking or cribbing etc.
3. Confined space entry procedures and policy must be followed for all confined space entry.
4. Fall protection must be utilized where required.
5. Safety devices and/or warning signs must never be tampered with or made inoperable or unreadable.
6. Tools and equipment must be inspected prior to use. Report any defective equipment to your Supervisor immediately.
7. Never cross railroad tracks if flashing lights, gates, or other warning signals are activated unless signaled by an uniformed representative of the railroad or the steel mill. Crossing tracks in areas where no lights or signals are present must be done with extreme caution and as spelled out in applicable written job procedures or rules.

## **5. SUNDRY**

- |  |                        |
|--|------------------------|
| A. Penalty for three (3) minor offenses in separate categories in a sixty (60) day period. (See Note 2). | • Final Written        |
| B. Penalty for three (3) major offense in separate categories in a nine (9) month period. (See Note 3).  | • Subject to Discharge |

**Note 1:** It is recognized that extenuating circumstances alter conditions and time elements. Each case to be heard on its own merits.

**Note 2:** A minor offense is defined as one for which the penalty is a reprimand.

**Note 3:** A major offense is defined as one for which the penalty is final written warning.

**Note 4:** Offenses that are over 12 months old shall not be used towards progressive disciplinary actions. A prompt warning notice in writing must be given for infractions of any rules or regulations. Discharge must be by proper written notice.

**I have received the January 2008 Mini Mill Uniform Rules and Regulations for my file. I understand and will comply with all provisions. I also understand that if I am in violation of this policy, the Company could apply discipline up to and including discharge.**


72 [Signature]  
Employee Signature

11/30/09  
Date

[Signature]  
Supervisor Signature

11-30-09  
Date

## Hot Work Permit



Hot Work Permits are required for any temporary operation involving open flames or producing heat and/or sparks. Examples include:

brazing cutting, grinding, soldering, torch-applied roofing and welding.

## Fire Protection & Prevention


- Temporary Measures
- Emergency Equipment
- Storage
  - refuse
  - flammable liquid
  - compressed gases
- Temporary Heating Devices
- Hot Work

## Emergency Response

- Small Fires
- Large Fires
- Explosions
- Inclement Weather
- Emergency Evacuation
- Medical Emergencies
  - Burns
  - Environmental Emergencies
  - Foreign Bodies to the Eye
  - Strains and Sprains

## Utility Identification / Protection

- Notification
- Underground utilities
- Shoring
- Warning of openings



## Fall Protection Requirements

- Unprotected heights > 4'
- Man lifts / baskets
- Ladder Safety
- Requirements
  - 100% tie off
  - full body harness
  - Retractable Lifeline
  - vertical/horizontal lifelines
  - anchor points (5000 lbs. / person)

Continued

## Fall Prevention Hierarchy of Controls

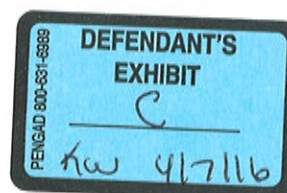
1. Do the work on the ground
2. Use a scaffold, man lift, scissor lift, etc.
3. Install a guardrail or barrier at the fall edge
 

If you are not sure or can't:



**Don't Do The Job**

See your Team Leader!

Use a Travel Restraint System
4. Use a Fall Arrest System



# Proper Harness

# Confined Space Entry

- Trained Entrants / Attendants
- Entry Supervisor
- Area Supervisor
- Ensure lock out is complete
- Complete Permit / Obtain Authorization
- Atmospheric Monitoring
- Emergency Response

[illegible]

# Lock Out

Required for:

- service or maintenance
- removing / bypassing guard or safety device
- exposure to point of operation

Procedures:

- We perform primary lockout
- Each contract employee locks out
- One lock – one key
- Each lock labeled
- Locks must be removed at the end of each shift

# Lock Out Sign In/Out Sheet

## Group Lockout Box

*Correct*













## Incorrect



# MICHAEL C. WRIGHT

## STEEL MILL EXPERT WITNESS CASE HISTORY

Case: Theodore Lucio et al. v. Edw. C. Levy Co. et al.  
Attorney(s): Jonathan M. Ashton, Ohio

---

Side: Plaintiff  
Date: January 2016

Case: Bryan Olszewski v. A. Finkl & Sons Co.  
Attorney(s): Mark Nazarof, Illinois

---

Side: Defendant  
Date: June 2015

Case: John Goforth v. IPSCO Steel Alabama, Inc. et al.  
Attorney(s): Roger Lucas, Alabama

---

Side: Plaintiff  
Date: June 2015

Case: Ryan Babjak et al. v. ArcelorMittal USA et al.  
Attorney(s): David Kawala and Matt VerSteeg, Indiana

---

Side: Defendant  
Date: April 2015

Case: Estate of Michael Samuelson. v. ArcelorMittal USA et al.  
Attorney(s): David Kawala and Matt VerSteeg, Indiana

---

Side: Defendant  
Date: April 2015

Case: Estate of Gregory D. Barnes v. Minteq International, Inc. et al.  
Attorney(s): William E. Santen Jr., Ohio

---

Side: Plaintiff  
Date: December 2014

Case: Christian DeMarco v. Heritage Steel et al.  
Attorney(s): Michael Fitzpatrick, Ohio

---

Side: Defendant  
Date: July 2014

Case: Donald Powell v. Commercial Metals Company et al.  
Attorney(s): Jeffrey C. Rickard, Alabama

---

Side: Plaintiff  
Date: May 2013

Case: Yolanda Cantu et al. v. Irondale Industrial Contractors Inc. et al.  
Attorney(s): David T. Andrews, Ohio

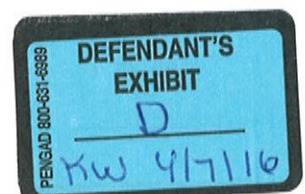
---

Side: Defendant  
Date: June 2011

Case: Timothy Feltner v. Republic Engineered Products et al.  
Attorney(s): Benjamin F. Barrett Sr., Ohio

---

Side: Plaintiff  
Date: August 2010





Michael C. Wright  
President  
PE, CSP, CPE

Case: John Brown et al. v. Alliance Castings Co. et al.  
Attorney(s): Mark Snyder and Mike Reidy, Ohio

---

Side: Defendant  
Date: November 2009

Case: Kelly E. Stamps et al. v. Mittal Steel USA, Inc. et al.  
Attorney(s): Jeffrey S. Wrage, Indiana

---

Side: Plaintiff  
Date: May 2008

Case: Jolliffe Thompson v. Republic Engineered Products et al.  
Attorney(s): Don Kral, Ohio

---

Side: Plaintiff  
Date: May 2008

Case: Jeffrey J. Przytulski et al. v. Republic Engineered Products et al.  
Attorney(s): Thomas Connick, Ohio

---

Side: Defendant  
Date: December 2007

Case: Craig Woodruff et al. v. Alcoa, Inc.  
Attorney(s): Gary P. Connelly, Pennsylvania

---

Side: Defendant  
Date: February 2006

Case: James Hodgeson v. Republic Technologies International  
Attorney(s): Tim Collins and Kristie Weibling, Ohio

---

Side: Plaintiff  
Date: January 2006

Case: Department of Labor v. CF and I Steel, L.P., a subsidiary of  
Oregon Steel Mills, Inc., Pueblo, CO  
Attorney(s): Toby Fritz, Colorado

---

Side: Plaintiff  
Date: August 1998

## PROFESSIONAL EXPERIENCE

### (General Experience History)

#### Aerial and Scissor Lifts

Fully trained in the regulations and standards governing aerial and scissor lifts and knowledgeable of their proper application. Past experience includes the selection, use and inspection of equipment and the qualifications to determine if equipment is being used as intended by the manufacturer, OSHA and ANSI. Knowledge of structural engineering, the operation of aerial and scissor lifts on construction and general industry sites, and training adds to expertise.

- ✧ Developed criteria for continuous monitoring program
- ✧ Developed safety training program, including customized manuals
  - Construction industry
    - ◇ Awareness
    - ◇ User
    - ◇ Competent person
  - General industry
    - ◇ Awareness
    - ◇ User
    - ◇ Competent person
- ✧ Evaluation of hazard identification programs
- ✧ Has written policies, program and procedures
- ✧ Performed job hazard analysis
- ✧ Recommendations for use and training

#### Courses

- ✧ Aerial and Scissor Lift Operator Certified
- ✧ OSHA Course—Aerial Platform Lifts for Construction and General Industry (1997)
- ✧ Overhead Lifting and Rigging Safety (1997)

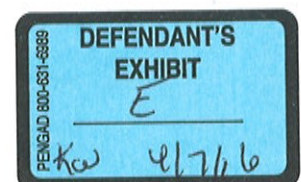
#### Instruction

- ✧ Aerial and Scissor Lift Requirements by OSHA and ANSI
- ✧ Overhead Lifting and Rigging Safety (1997)

### Anchorage Points for Fall Arrest Programs

#### Companies

- ✧ Boeing Corporation
- ✧ Daimler Chrysler Corporation
- ✧ Delphi Automotive Systems
- ✧ Department of Defense
- ✧ Department of Labor
- ✧ Ford Motor Company
- ✧ General Motors
- ✧ Honda
- ✧ Lockheed Martin
- ✧ Navistar
- ✧ United States Navy
- ✧ Pacific Gas and Electric
- ✧ Procter and Gamble Company
- ✧ Saturn Corporation
- ✧ United States Air Force



## Maritime Safety

- ✚ American Bureau of Shipping—Interwaterway Requirements
  - SOLAS Cargo Ship Safety Equipment Requirements
  - Mobile Offshore Drilling Unit Safety Requirements
  - American National Standards Institute (ANSI)
  - Code of Federal Regulations
  - Title 33: Navigation and Navigable Waters
  - Title 46: Shipping, Part 8—Vessel Inspection Alternatives, Subpart D—Alternate Compliance Program
- ✚ Lighthouses and Other Navigational Aids
  - Barges
  - Jones Act
  - River vessels
  - Tugboats
- ✚ Maritime (Standards 29 CFR)
  - Part 1915: Occupational Safety and Health Standards for Shipyard Employment
  - Part 1917: Marine Terminals
  - Part 1918: Safety and Health Regulations for Long Shoring
  - National Institute for Occupational Safety and Health (NIOSH)
  - Occupational Safety and Health Administration (OSHA)
  - U.S. Coast Guard
  - USCG Office of Design and Engineering Standards
- ✚ U.S. Coast Guard Approved Supplements
  - ABS Rules for Steel Vessels for Vessels Certificated for International Voyages (1 June 2003)
  - ABS Rules for Steel Vessels Under 90 Meters (295 Feet) in Length for Vessels Certificated for International Voyages (1 June 2003)
  - ABS Rules for Steel Vessels for Vessels on International Voyages (1 November 1999)
  - ABS Rules for Steel Vessels Under 90 Meters (295 Feet) in Length for Vessels on International Voyages (29 March 1999)
  - ABS Rules for Building and Classing Mobile Offshore Drilling Units and the 1989 IMO MODU Code (1 November 1998)
  - ABS Rules for Steel Vessels for Vessels on International Voyages (1 August 1997)
  - DNV Supplement, Revision 10 (October 2003)
- ✚ U.S. Coast Guard Publications
  - Navigation and Vessel Inspection Circular No. 2-95 "Alternate Compliance Program"
  - Marine Safety Manual Vol. II, Section B, CH. 9
  - Federal Register Vol. 60 No. 23 (February 3, 1995) "ACP and ABS Pilot Program"
  - Federal Register Vol. 61 No. 250 (December 27, 1996) "ACP and Recognized Societies"
  - Federal Register Vol. 63 No. 30 (February 13, 1998) "ACP Supplement Development Process"
  - Supplement Review and Revision Process
- ✚ U.S. Department of Homeland Security

## Safety and Engineering Services for Steel Manufacturing and Processing Facilities

### Steel Mills

- ✚ Alro Steel, Dayton, OH (1995)
  - Structural analysis
  - Structural and safety renovations
  - Structural bolt torque check of the connections
  - Structural reinforcements
- ✚ AK Steel, Middletown, OH (1995–2003)
  - Confined space safety audits
  - Fall hazard abatement options for safe access to overhead cranes

- Fall hazard risk assessment
- Machine guarding safety audits
- Roof deck safety audit
- Safety lockout/tagout audits
- Safety policy and safety manual review
- Safety work procedures
- Structural analysis
- Structural and safety renovations
- Structural reinforcements
- ✎ Ford, Detroit, MI (1996–2002)
  - Confined space safety audits
  - Fall hazard risk assessment
  - Fall protection for roof, building and machinery
  - Fall protection training programs
  - Lockout/tagout safety audits
  - Lockout/tagout safety training programs
  - Machine guarding safety audits
  - Machine guarding safety training programs
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety work procedures
  - Structural analysis
  - Structural and safety renovations
  - Structural reinforcements
- ✎ Gary Works, Gary, IN (1993)
  - Structural analysis
  - Structural engineering design for entire mixer plant
  - Structural reinforcements
  - Structural and safety renovations
- ✎ General Motors, Defiance, OH (1993–2004)
  - Confined space safety audits
  - Fall protection training programs
  - Machine guarding safety audits
  - Machine guarding safety training programs
  - Lockout/tagout safety audits
  - Lockout/tagout safety training programs
  - Safety abatement of platforms and factory roofs
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety work procedures
  - Steel pouring safety process
  - Structural analysis
  - Structural and safety renovations
  - Structural design of crane system and machine foundations
  - Structural reinforcements
- ✎ General Motors, Saginaw, MI (1993–2004)
  - Confined space safety audits
  - Fall protection training programs
  - Machine guarding safety audits
  - Machine guarding safety training programs
  - Lockout/tagout safety audits
  - Lockout/tagout safety training programs
  - Roof fall protection
  - Safety abatement of platforms and factory roofs
  - Safety hazard analysis
  - Safety policy and safety manual review

- Safety work procedures
- Steel pouring safety process
- Structural analysis
- Structural and safety renovations
- Structural design of crane system and machine foundations
- Structural reinforcements
- ↳ General Motors, Decatur, IL (1993–2004)
  - Confined space safety audits
  - Fall protection training programs
  - Lockout/tagout safety audits
  - Lockout/tagout safety training programs
  - Machine guarding safety audits
  - Machine guarding safety training programs
  - Safety abatement of platforms and factory roofs
  - Safety hazard analysis and design
  - Safety policy and safety manual review
  - Safety work procedures
  - Steel pouring safety process
  - Structural analysis
  - Structural and safety renovations
  - Structural design of crane system and machine foundations
  - Structural reinforcements
- ↳ Nova Steel Processing, Inc., Tipp City, OH (1991)
  - Fall hazard safety audits
  - Fall protection work procedures
  - Performed contractor performance reviews and inspections
  - Provided crane runway design reinforcement and inspection
  - Renovated multiple buildings
  - Safety hazard training programs
  - Safety policy and safety manual review
  - Safety training program
- ↳ PKM Steel, Salina, KS (2007–2008)
  - Fall hazard safety abatement of platforms and factory roofs
  - Lockout/tagout safety audits
  - Machine guarding safety audits
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety work procedures
  - Structural analysis
  - Structural and safety renovations
  - Structural design of crane system and machine foundations
  - Structural reinforcements
- ↳ PTC Alliance (2007–2012)
  - Alliance, OH—Performed a fall hazard assessment
  - Beaver Falls, PA—Designed a fall protection restraint system for accessing the top of a machine
  - Beaver Falls, PA; Darlington, PA; Alliance, OH— Provided crane tie off fall protection
  - Darlington, PA; Beaver Falls, PA; Alliance, OH— Provided Qualified Person services for fall protection
  - Darlington, PA; Beaver Falls, PA; Alliance, OH—Provided anchorage design drawings for accessing the various crane trolleys
  - Hopkinsville, KY—Provided Qualified Person services for a specialized fall protection system that utilized the crane trolleys to gain access to elevated equipment

- ✧ Steel Dynamics, Fort Wayne, IN (2012–2014)
  - Developed a comprehensive fall protection program for corporate review
  - Discussed the safety culture, level of training, observed behaviors, typical fall hazard activities and other data
  - Provided modifications and additions to the safety program
  - Reviewed existing safety program language
- ✧ Steel of West Virginia, Huntington, WV (2010–2015)
  - Fall protection audit
  - Machine guarding safety audits
  - Reinforced existing crane runway
  - Reviewed previous evaluations
  - Safety hazard analysis
  - Safety work procedures
  - Structural analysis of the existing casting structure
  - Structural and safety renovations
  - Structural evaluation of crane rail systems
- ✧ Superior Forge and Steel, Lima, OH (2008–2009)
  - Confined space safety audits
  - Fall hazard abatement options for safe access to furnace and overhead cranes
  - Fall protection safety training program
  - Lockout/tagout safety audits
  - Machine guarding safety audits
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety work procedures
  - Steel pouring safety process
  - Structural analysis
  - Structural and safety renovations
  - Structural design of crane system and machine foundations
  - Structural reinforcements
- ✧ Timken Company/Faircrest Steel Plant, Canton, OH (2008–2009)
  - Confined space safety audits
  - Fall hazard abatement options for safe access to overhead cranes
  - Fall protection safety training program
  - Lockout/tagout safety audits
  - Machine guarding safety audits
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety work procedures
  - Steel pouring safety process
  - Structural analysis
  - Structural and safety renovations
  - Structural design of crane system and machine foundations
  - Structural reinforcements

### **Aluminum Mills**

- ✧ Reynolds Metal Company, Muscle Shoals, AL (1997)
  - Anchor points—standard details
  - Documentation video—script, editing, technical consultant for “Horizontal Lifeline Test and Verification of Design Procedures”
  - Fall protection safety training
  - Lockout/tagout safety audits
  - Machine guarding safety audits
  - Safety hazard analysis
  - Safety policy and safety manual review
  - Safety training programs

- Customized fall protection systems for machinery and buildings
- Fall arrest horizontal lifelines

### ***Types of Services Provided***

- ✚ Anchorage points, including but not limited to fall arrest, fall restraint, positioning and rescue
- ✚ Conducted structural evaluation of crane rail systems
- ✚ Confined space safety audits
- ✚ Designed fall protection restraint systems
- ✚ Developed comprehensive fall protection program
- ✚ Developed comprehensive lockout/tagout program
- ✚ Developed comprehensive machine guarding program
- ✚ Fall hazard abatement options for safe access to equipment and cranes
- ✚ Fall hazard risk assessment
- ✚ Lockout/tagout safety audits
- ✚ Machine guarding safety audits
- ✚ Performed contractor performance reviews and inspections
- ✚ Performed safety training, including lockout/tagout, machine guarding, fall arrest, fall restraint, positioning and rescue
- ✚ Provided comprehensive fall protection services
- ✚ Provided crane runway design reinforcement and inspection
- ✚ Provided modifications and additions to safety programs and training
- ✚ Provided structural analysis of the existing structures
- ✚ Reinforced existing crane runway systems
- ✚ Renovated buildings and structures
- ✚ Reviewed existing safety programs and provides updated revisions
- ✚ Reviewed previous evaluations
- ✚ Roof deck safety audit, including fall protection procedures
- ✚ Safety abatement of platforms and factory machinery
- ✚ Safety audits
- ✚ Safety hazard analysis
- ✚ Safety policy and manual review
- ✚ Safety protocols during steel operations
- ✚ Structural analysis and design of buildings and structures
- ✚ Structural and safety renovations
- ✚ Structural design of crane systems and machine foundations
- ✚ Structural engineering design for machine guarding
- ✚ Structural reinforcements of building, mezzanines, and structures

### **Safety Programs: Training, Manuals, Audits, OSHA Compliance**

- ✚ Aerial and scissor lifts programs
- ✚ Amusement parks programs
- ✚ Confined space programs
- ✚ Design liaison between owners and manufacturers/contractors
- ✚ Fall protection programs—200 million square feet
- ✚ Ladder and stepladder safety—portable and fixed
- ✚ Lockout/tagout programs—3 million square feet
- ✚ Machine guarding programs—3 million square feet
- ✚ Rescue programs
- ✚ Roof deck structural integrity—33 million square feet
- ✚ Rope rescue programs
- ✚ Safety regulations, standards and industry safety practices
- ✚ Scaffolding
- ✚ Suspended crane loads
- ✚ Suspended scaffolding
- ✚ Systems design and analysis



9363 Detrick Jordan Pike  
New Carlisle, OH 45344-9140  
Office: 937-964-1900  
Fax: 937-964-8457  
Corporate Tax ID: 51-0465604

Amount Due: **\$24,515.00**  
5% finance charge added if paid after 03/10/16: **\$25,740.75**

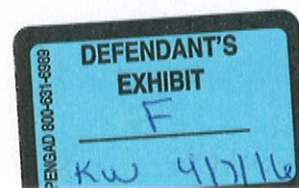
Invoice Number: 1  
Invoice Date: 2/9/16  
Billing Period: 1/20/16 to 2/9/16

TO: Mr. Jonathan M. Ashton  
Gallon, Takacs, Boissoneault & Schaffer Co., L.P.A.  
3516 Granite Circle  
Toledo, OH 43617

RE: Expert Witness Services for Lucio et al. v. Levy Environmental Services et al.  
Case No. 3:15-CV-00613

### INVOICE

Date	Description	Hours	Amount
SERVICE: Review and Analysis of Documents to Develop Basis for Opinions			
Case Documents			
1/25-28/16	First Amended Complaint with Jury Demand Endorsed Hereon. August 21, 2015	0.3	\$ 105.00
1/25-28/16	Complaint with Jury Demand Endorsed Hereon	0.2	\$ 70.00
1/25-28/16	VSSR Investigative Report. January 16, 2014	0.1	\$ 35.00
1/25-28/16	VSSR Ex 1: Affidavit of Theodore Lucio. December 17, 2013	0.2	\$ 70.00
1/25-28/16	VSSR Ex 2: Photo Report	0.3	\$ 105.00
1/25-28/16	VSSR Ex 3: Levy Incident Details. February 25, 2013	0.2	\$ 70.00
1/25-28/16	VSSR Ex 4: Redacted OSHA Report. March 5, 2013	0.9	\$ 315.00
1/25-28/16	Defendant's Rule 26(A) Disclosures	0.5	\$ 175.00
1/25-28/16	Defendant Levy Environment Services Company's Motion for Summary Judgment. August 31, 2015	0.5	\$ 175.00
1/25-28/16	Affidavit of Malcom Dunbar. August 31, 2015	0.3	\$ 105.00
1/25-28/16	Plaintiff's Memorandum in Opposition to Defendant Levy Environmental Services Company's Motion for Summary Judgment. November 25, 2015	0.4	\$ 140.00
1/25-28/16	Defendant Edw. C. Levy Co.'s Responses to Plaintiffs' First Set of Requests for Production of Documents Directed to Defendant and Defendant Edw. C. Levy Co. November 25, 2015	0.1	\$ 35.00



# INVOICE

Date	Description	Hours	Amount
1/25-28/16	Edw C Levy confidential discover response attachments (Edw.C.Levy-000001-000170)	1.5	\$ 525.00
1/25-28/16	North Star Discovery Responses (broken down below)	N/C	N/C
1/25-28/16	Request 1 - Slag Handling and Mill Services Agreement (1996) (NSBS_000001-000084)	0.9	\$ 315.00
1/25-28/16	First Amended and Restated Slag Handling and Mill Services Agreement (2010) (NSBS_000084-000140)	0.9	\$ 315.00
1/25-28/16	Second Amended and Restated Slag Handling and Mill Services Agreement (2015) (NSBS_000141-000161)	0.5	\$ 175.00
1/25-28/16	Request 2 - Drawing (NSBS_000162)	0.1	\$ 35.00
1/25-28/16	Request 3 - Contractor Guide (NSBS_000163-000207)	0.5	\$ 175.00
1/25-28/16	Contractor Induction Power Point (NSBS_000208-000215)	0.4	\$ 140.00
1/25-28/16	Request 5 - Email Correspondence (NSBS_000216-000241)	0.5	\$ 175.00
1/25-28/16	Incident Cause Analysis Method Report. (NSBS_000242-000259) Duplicate of Levy-000117-000134	0.3	\$ 105.00
1/25-28/16	Levy disc responses (broken down below)	N/C	N/C
1/25-28/16	Incident Cause Analysis Method Report. (Levy-000117-000134)	0.3	\$ 105.00
1/25-28/16	Safety meeting paperwork (Levy-000142-000295)	1.5	\$ 525.00
1/25-28/16	OSHA Form 300 (Levy-000422-000435)	0.2	\$ 70.00
1/25-28/16	Fulton Mill Service Drawing List (Levy-000436-000489)	1.2	\$ 420.00
Total Michael C. Wright at \$350/hour:		12.8	\$ 4,480.00

## Photos

1/25-28/16	10-16-14 Inspection photos	0.1	\$ 35.00
Total Michael C. Wright at \$350/hour:		0.1	\$ 35.00

## Depositions: Review, make markings on documents, relate to code and standard requirements, making reference notes for Deposition and/or Report

1/25-28/16	Theodore Lucio. February 20, 2015	2.0	\$ 700.00
01/22/16	T. Lucio. Ex 1	N/C	N/C
01/21/16	Shawn Griffin. February 24, 2015	2.0	\$ 700.00
01/22/16	Walter Deeds. February 24, 2015	1.0	\$ 350.00
01/22/16	Gregory J. Lambert, Jr. w/exhibits. June 22, 2015	1.2	\$ 420.00
01/22/16	Gary Frisinger. June 23, 2015	1.0	\$ 350.00
01/22/16	Rock Miller. November 6, 2015	1.9	\$ 665.00
01/22/16	R. Miller Ex 1	N/C	N/C
01/22/16	R. Miller Ex 2	N/C	N/C
01/22/16	R. Miller Ex 3	N/C	N/C
01/22/16	R. Miller Ex 4 (Levy-000303-000417)	0.6	\$ 210.00
01/22/16	R. Miller Ex 5 (Levy-000025-000028 & 000418-000421)	N/C	N/C
01/22/16	R. Miller Ex 6	N/C	N/C

# INVOICE

Date	Description	Hours	Amount
01/22/16	R. Miller Ex 7 (Levy-000296-000302)	0.1	\$ 35.00
01/22/16	R. Miller Ex 8	N/C	N/C
01/22/16	R. Miller Ex 9 (Levy-000135-000141)	0.2	\$ 70.00
01/22/16	Malcom Dunbar. November 6, 2015	0.4	\$ 140.00
02/08/16	Brij Sapru. January 15, 2016	1.3	\$ 455.00
02/08/16	B. Sapru Ex. A-H (photos)	0.1	\$ 35.00
02/08/16	Jeffrey Joldrichsen. January 18, 2016	1.5	\$ 525.00
02/08/16	J. Joldrichsen Ex. A	0.1	\$ 35.00
02/08/16	J. Joldrichsen Ex. 1	0.1	\$ 35.00
02/08/16	J. Joldrichsen Ex. 2	0.1	\$ 35.00
02/08/16	J. Joldrichsen Ex. 3	0.1	\$ 35.00
01/22/16	Plaintiff Exhibits 1-10 (listed separate because they match up with multiple depositions)	N/C	N/C
Total Michael C. Wright at \$350/hour:		13.7	\$ 4,795.00
ANSI Standards			
1/25-28/16	ANSI/ASSE A10.39-1996. American National Standard for Construction Safety and Health Audit Program – American National Standard for Construction and Demolition Operations	0.1	\$ 35.00
1/25-28/16	ANSI/ASSE A10.33-1998 (R2004). American National Standard for Construction and Demolition Operations – Safety and Health Program Requirements for Multi-Employer Projects	0.5	\$ 175.00
1/25-28/16	ANSI/ASSE A1264.1-2007. American National Standard: Safety Requirements for Workplace Walking/Working Surfaces and Their Access; Workplace, Floor, Wall and Roof Openings; Stairs and Guardrail Systems	0.5	\$ 175.00
1/25-28/16	ANSI Z490.1-2001. American National Standard: Criteria for Accepted Practices in Safety, Health, and Environmental Training	0.4	\$ 140.00
1/25-28/16	ANSI/ASSE Z359.1-2007. American National Standard: Safety Requirements for Personal Fall Arrest Systems, Subsystems and Components	0.5	\$ 175.00
Total Michael C. Wright at \$350/hour:		2.0	\$ 700.00
ASME Standards			
1/25-28/16	ANSI/ASME B30.5-2007. Mobile and Locomotive Cranes. (Revision of ASME B30.5-2004)	0.4	\$ 140.00
1/25-28/16	ASME Safety Division. An Instructional Aid for Occupational Safety and Health in Mechanical Engineering Design. New York: American Society of Mechanical Engineers, 1984	0.6	\$ 210.00
Total Michael C. Wright at \$350/hour:		1.0	\$ 350.00

# INVOICE

Date	Description	Hours	Amount
U.S. Department of Labor: OSHA Regulations			
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart A. Subpart Title: General. Standard Number: 1910.6. Title: Incorporation by reference	N/C	N/C
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart B. Subpart Title: Adoption and Extension of Established Federal Standards. Standard Number: 1910.12. Title: Construction work	N/C	N/C
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking-Working Surfaces. Standard Number: 1910.21. Title: Definitions	0.1	\$ 35.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking-Working Surfaces. Standard Number: 1910.22. Title: General requirements	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking-Working Surfaces. Standard Number: 1910.23. Title: Guarding floor and wall openings and holes	0.3	\$ 105.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking-Working Surfaces. Standard Number: 1910.24. Title: Fixed industrial stairs	0.1	\$ 35.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking-Working Surfaces. Standard Number: 1910.27. Title: Fixed Ladders	0.1	\$ 35.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart D. Subpart Title: Walking – Working Surfaces. Standard Number: 1910.30. Title: Other Working Surfaces	0.1	\$ 35.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart F. Subpart Title: Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms. Standard Number: 1910.68. Title: Manlifts	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart I. Subpart Title: Personal Protective Equipment. Standard Number: 1910.132. Title: General requirements	0.2	\$ 70.00

**INVOICE**

<b>Date</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart J. Subpart Title: General Environmental Controls. Standard Number: 1910.145. Title: Specifications for accident prevention signs and tags	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart N. Subpart Title: Materials Handling and Storage. Standard Number: 1910.179. Title: Overhead and gantry cranes	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart N. Subpart Title: Materials Handling and Storage. Standard Number: 1910.180. Title: Crawler locomotive and truck cranes	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1910. Part Title: Occupational Safety and Health Standards. Subpart N. Subpart Title: Materials Handling and Storage. Standard Number: 1910.184. Title: Slings	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1926. Part Title: Safety and Health Regulations for Construction. Subpart M. Subpart Title: Fall Protection. Standard Number: 1926.500. Title: Scope, application and definitions applicable to this subpart	0.1	\$ 35.00
1/25-28/16	Standards – 29 CFR. Part Number: 1926. Part Title: Safety and Health Regulations for Construction. Subpart M. Subpart Title: Fall Protection. Standard Number: 1926.501. Title: Duty to have fall protection	0.2	\$ 70.00
1/25-28/16	Standards – 29 CFR. Part Number: 1926. Part Title: Safety and Health Regulations for Construction. Subpart M. Subpart Title: Fall Protection. Standard Number: 1926.502. Title: Fall protection systems criteria and practices	0.3	\$ 105.00
1/25-28/16	Standards – 29 CFR. Part Number: 1926. Part Title: Safety and Health Regulations for Construction. Subpart M. Subpart Title: Fall Protection. Standard Number: 1926.503. Title: Training requirements	0.1	\$ 35.00
1/25-28/16	Occupational Safety and Health Act of 1970. General Duty Clause. Section 5. Duties. Specifically Clause 5(a)(1)	N/C	N/C
Total Michael C. Wright at \$350/hour:		2.8	\$ 980.00
U.S. Department of Labor: OSHA Letters of Interpretation			
1/25-28/16	Standard Interpretations. Standard Number: 1910.23; 1910.269. General industry standard as it applies to the electric utility industry. December 18, 1997	0.4	\$ 140.00
1/25-28/16	Standard Interpretations. Standard Number: 1910.261; 1926.56. OSHA accepts employers' use of the ANSI/IES-RP-7-1991 incorporated by reference or adopted into OSHA standards. June 17, 1996	N/C	N/C

# INVOICE

Date	Description	Hours	Amount
1/25-28/16	Standard Interpretations. Standard Number: 1926.16. Determining the controlling employer with the role of providing general supervisory authority when using multi-employer two-step analysis citation policy. December 13, 2001	0.2	\$ 70.00
1/25-28/16	Standard Interpretations. Elements necessary for a violation of the General Duty Clause. December 18, 2003	0.2	\$ 70.00
1/25-28/16	Standard Interpretations. Standard Number: 1926.16(a). Application of OSHA Act and Multi-Employer Citation Policy rather than CWHSSA to ensure subcontractors meet construction occupational safety and health responsibilities. March 15, 2005	0.1	\$ 35.00
1/25-28/16	Standard Interpretations. Standard Number: 1910.144; 1910.145; 1910.145(d). ANSI standards regarding accident prevention signs and physical hazard marking. February 22, 2011	0.1	\$ 35.00
Total Michael C. Wright at \$350/hour:		1.0	\$ 350.00
U.S. Department of Labor: OSHA Federal Registers			
1/25-28/16	Federal Register. Publication Date: January 26, 1989. Publication Type: Notice. Federal Register Number: 54:3904-3916. Standard Number: 1910; 1910.1200; 1915; 1917; 1918; 1926. Title: Safety and Health Program Management Guidelines; Issuance of Voluntary Guidelines	0.2	\$ 70.00
1/25-28/16	Federal Register. Publication Date: January 26, 1995. Publication Type: Final Rules. Federal Register Number: 60:5131-5133. Standard Number: 1926. Title: Safety Standards for Fall Protection in the Construction Industry	0.3	\$ 105.00
1/25-28/16	Federal Register. Publication Date: May 2, 2003. Publication Type: Proposed Rule. Federal Register Number: 68:23527-23568. Standard Number: 1910. Title: Walking and Working Surfaces; Personal Protective Equipment (Fall Protection Systems)	0.3	\$ 105.00
1/25-28/16	Federal Register. Publication Date: May 24, 2010. Publication Type: Proposed Rule. Federal Register Number: 75:28861-29153. Standard Number: 1910. Title: Walking and Working Surfaces; Personal Protective Equipment (Fall Protection Systems)	0.5	\$ 175.00
Total Michael C. Wright at \$350/hour:		1.3	\$ 455.00
U.S. Department of Labor: OSHA Directives			
1/25-28/16	Directives. Record Type: Instruction. Directive Number: STD 01-01-013. Old Directive Number: STD 1-1.13. Title: Fall Protection in General Industry 29 CFR 1910.23(c)(1), (c)(3), and 29 CFR 1910.132(a). Information Date: April 16, 1984	0.4	\$ 140.00

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**INVOICE**

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<b>Date</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
1/25-28/16	Directives. Record Type: Instruction. Directive Number: CPL 02-00-124. Old Directive Number: CPL 2-0.124. Title: Multi-Employer Citation Policy. Information Date: Dec. 10, 1999	0.5	\$ 175.00
1/25-28/16	Directives. Record Type: Instruction. Directive Number: STD 01-01-013. Old Directive Number: STD 1-1.13. Title: Fall Protection in General Industry 29 CFR 1910.23(c)(1), (c)(3), and 29 CFR 1910.132(a). Information Date: April 16, 1984	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		1.1	\$ 385.00
U.S. Department of Labor: OSHA Publications			
1/25-28/16	Fall Protection in Construction. OSHA 3146-1998 (Revised)	0.2	\$ 70.00
1/25-28/16	Job Hazard Analysis. OSHA 3071-2002 (Revised)	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		0.4	\$ 140.00
NIOSH Publications			
1/25-28/16	DHHS (NIOSH) Publication No. 90-100. Preventing Worker Deaths and Injuries from Falls Through Skylights and Roof Openings. NIOSH Alert: December 1989	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		0.2	\$ 70.00
U.S. Army Corps of Engineers: Safety and Health Requirements Manual			
1/25-28/16	Publication Number: EM 385-1-1. Title: Safety – Safety and Health Requirements. Proponent: CESO-ZA. Publication Date: November 3, 2003	0.3	\$ 105.00
1/25-28/16	Publication Number: EM 385-1-1. Title: Safety – Safety and Health Requirements. Proponent: CESO-ZA. Publication Date: September 15, 2008	0.3	\$ 105.00
Total Michael C. Wright at \$350/hour:		0.6	\$ 210.00
NSC: National Safety Council			
1/25-28/16	National Safety Council. Accident Prevention Manual for Business & Industry: Engineering & Technology. Edited by Philip Hagan, Gary R. Kreiger, John F. Montgomery, and James T. O'Reilly. 12th edition. Itasca, IL: National Safety Council Press, 2000	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		0.2	\$ 70.00
OAC: Ohio Administrative Codes			
1/25-28/16	4123:1-5-02 Guarding floor and wall openings and holes	0.3	\$ 105.00
1/25-28/16	4123:1-5-25 Vehicle-mounted elevating and rotating work platforms	0.3	\$ 105.00
Total Michael C. Wright at \$350/hour:		0.6	\$ 210.00

# INVOICE

Date	Description	Hours	Amount
<b>ORC: Ohio Revised Code</b>			
1/25-28/16	ORC 4101.11 Duty of employer to protect employees and frequenters	0.2	\$ 70.00
1/25-28/16	ORC 4101.12 Duty of employer to furnish safe place of employment	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		0.4	\$ 140.00
<b>OSHRC: Occupational Safety and Health Review Commission</b>			
1/25-28/16	Secretary of Labor v. Unarco Commercial Products. OSHRC Docket No. 89-1555. December 16, 1993	0.9	\$ 315.00
Total Michael C. Wright at \$350/hour:		0.9	\$ 315.00
<b>IBC: International Building Code</b>			
1/25-28/16	2003 International Building Code. Country Club Hills, IL: International Code Council	0.4	\$ 140.00
1/25-28/16	2006 International Building Code. Country Club Hills, IL: International Code Council	0.2	\$ 70.00
1/25-28/16	2009 International Building Code. Country Club Hills, IL: International Code Council	0.2	\$ 70.00
Total Michael C. Wright at \$350/hour:		0.8	\$ 280.00
<b>Books/Articles</b>			
1/25-28/16	MacCollum, David V. Construction Safety Planning. New York: John Wiley & Sons, 1995	0.2	\$ 70.00
1/25-28/16	MacCollum, David V. Construction Safety Engineering Principles: Designing and Managing Safer Job Sites. McGraw-Hill Construction Series. New York: McGraw-Hill, 2007	0.3	\$ 105.00
Total Michael C. Wright at \$350/hour:		0.5	\$ 175.00
<b>SERVICE: Creation of the Expert Witness Report</b>			
01/29/16	Preparation of Expert Witness Report	5.2	\$ 1,820.00
02/02/16	Preparation of Expert Witness Report	4.3	\$ 1,505.00
02/03/16	Preparation of Expert Witness Report	8.0	\$ 2,800.00
02/04/16	Preparation of Expert Witness Report	8.0	\$ 2,800.00
02/05/16	Preparation of Expert Witness Report	3.5	\$ 1,225.00
02/06/16	Preparation of Expert Witness Report	5.5	\$ 1,925.00
02/08/16	Preparation of Expert Witness Report	2.0	\$ 700.00
02/09/16	Preparation of Expert Witness Report	2.0	\$ 700.00
Total Michael C. Wright at \$350/hour:		38.5	\$ 13,475.00

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**INVOICE**

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<b>Date</b>	<b>Description</b>	<b>Hours</b>	<b>Amount</b>
<b>SERVICE: Technical Writer &amp; Editor: Editing &amp; Formatting the Expert Witness Report</b>			
02/05/16	Preparation of Expert Witness Report	4.0	\$ 600.00
02/09/16	Preparation of Expert Witness Report	2.0	\$ 300.00
Total Technical Writer & Editor Assoc. at \$150/hour:		6.0	\$ 900.00
<b>SERVICE: Administrative Associate: Invoice Preparation</b>			
02/09/16	Invoice Preparation	N/C	N/C
Total Administrative Associate at \$85/hour:		N/C	N/C

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Subtotal: \$ 28,515.00

Less Retainer: \$ 4,000.00

Amount Due: \$ 24,515.00

5% finance charge added if paid after 03/10/16: \$ 25,740.75

*Payment is due upon receipt per the signed agreement.*

Make checks payable to Safety Through Engineering, Inc. Thank you!